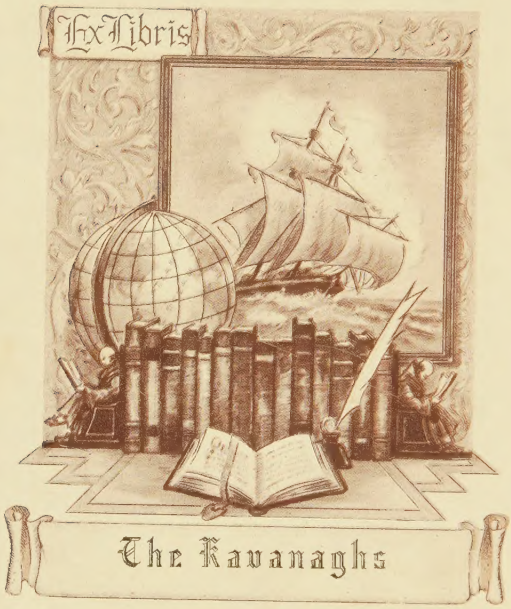
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MARRIAGE

PAST PRESENT AND FUTURE

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An Outline of the History and Development of Human Sexual Relationships

by

RALPH DE POMERAI

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"The marriage of to-day is not the marriage of yesterday, and still less is it likely to be the marriage of to-morrow."

H. G. Wells
(*The World of William Clissold*).

PREFACE

A BRIEF explanation of the genesis of this book will, I think, serve the double purpose of outlining my object and vindicating my temerity in adding yet another volume to the already formidable mass of literature on the subject.

Some fifteen years of residence in tropical and sub-tropical countries among peoples in various stages of social evolution naturally stimulated my interest in ethnographical sociology, while the works of eminent authors such as Lubbock, McLennan, Wäitz, Frazer, Letourneau, Westermarck, and numerous others, induced me to make copious notes of my own observations.

Despite my interest in the subject, I made no use of the material which I had collected until 1924. In that year, however, I encountered in the Far East a copy of Mr. Ludovici's *Woman: A Vindication*, and a perusal of this undeniably clever work on sexual relationships induced me to attempt a refutation of some of his generalizations with which I found myself in almost complete disagreement. Consequently, in 1925, I commenced a work which I tentatively called "Men, Women and Marriage," much of the data of which was culled from my previous notes.

Pressure of professional duties, however, rendered progress necessarily slow, and upon returning to England a year later the work, at least in its original form, was abandoned. This was chiefly because I had essayed, during the interim, to write a play entitled *Revolt*. The play dealt with divorce, and portrayed the inevitable clash that must result from the marriage of two persons who are mentally and temperamentally incompatible. The play, which was really a plea in dramatic form for the recognition of incompatibility as a ground for divorce, seemed to me to need something in the nature of a Shavian preface in order to vindicate my theme, and consequently I recast much of the material of my incompleted earlier work.

The resultant preface, however, proved inadequate. It was too long and tedious to be satisfactory as a preface, and too short and unauthoritative to warrant publication as a separate work. I decided, therefore, to recast my material and to add a full list of authorities quoted. The result is now in the reader's hands.

In spite of the fact that both Professor Westermarck and the late Professor Letourneau have written treatises on the history of the evolution of marriage which have rightly come to be regarded as classics—my indebtedness to these works is gratefully acknowledged in the text—I feel that my own work is not altogether superfluous, especially as it deals with certain important aspects of matrimony which receive but scant attention from these two eminent sociologists.

Both Letourneau and Westermarck have written their history of marriage almost exclusively from the viewpoint of the family; indeed, the latter definitely maintains that marriage is "rooted in family, rather than family in marriage." Although it is undeniable that marriage and the family are inextricably associated, I cannot agree that procreation is the sole, or even the highest, function served by matrimony. An impartial examination of all the evidence now available reveals the fact that even among the higher animals the association of the sexes is not exclusively dependent upon the existence of offspring, but that their mating is dictated as much by the urge of the gregarious, as by that of the procreative, instinct.

Natural marriage, if regarded as a more or less durable association of the sexes, has possessed from the very beginning a strong social significance, and among our most primitive human ancestors it was the function of the woman to be a helpmeet for her spouse as well as to mother his offspring. In certain stages of social evolution, however, this "companionate" aspect of marriage suffered temporary eclipse, but with the development and practice of the theory of *parens patriae* it was again stressed, and there can be but scant doubt that it will become increasingly important in the future.

Letourneau and Westermarck, moreover, seem to attach

little or no importance to the sex act except as a procreative device. In view of the fact that modern highly civilized man is superlatively more erotic than were his savage forebears, and that modern science has proved that sexual activity—over and above procreative needs—plays a stupendous part in physical and psychical development, the scant attention paid to this subject seems to me to constitute a grave omission. Again, both wrote their histories at a time when the trend of scientific thought was distinctly materialistic, and consequently both have been inclined to treat the evolution of life as being entirely moulded by environment and natural selection.

A quarter of a century of scientific progress, however, has given rise to an entirely different viewpoint. As Lord Balfour reminded the British Association, we know far too much about matter nowadays to be materialists, while Professor J. S. Haldane has declared that "the idea of life is nearer to reality than the ideas of matter and energy." Few eminent scientists would be prepared to maintain at the present that life is the mere epiphenomenon of a chance interplay of blind mechanical forces, and most, even if they could not declare with certainty that it has *purpose*, would definitely agree with Professor Julian Huxley that it has *direction*. Vitalism, of the type advocated by Dr. Hans Driesch and Professor Henri Bergson, although open to numerous objections, is much more rational than is materialism, and for myself, were I compelled to choose between these two systems of philosophy, I should unhesitatingly choose the former. This is not to maintain that the old conception of a transcendental and anthropomorphic deity is necessarily true—the deity may possibly be a sort of *élan vital* realizing itself in finite beings as suggested by Bergson—but it is to maintain that life has direction, and that a full life can be lived only when the individual seeks to discover and conform to such direction.

It has been my effort to discover this direction in the evolution of human marriage, sexual relationships, and sexual morality, and to apply the knowledge thus acquired to modern problems, and to indicate, as far as possible, the tendency of future develop-

ment. Modern marriage is in the melting-pot, our sexual relationships are chaotic, and our conventional sexual morality is no longer authoritative. Our marriage laws and moral codes, however, are not immutable, despite the conviction of many persons to the contrary; they have changed constantly in the past, and those at present existing originally won recognition merely because they served the general purpose of specific societies during particular stages of human evolution. These stages, however, are now outgrown, as also are the laws and codes adapted to them, and I have therefore sought to outline certain reforms based upon principles which seem to me to be inextricably associated with the general trend of evolutional development.

In writing this book, however, I have made no attempt to be strikingly original. Authorities have been freely quoted, and I gratefully acknowledge my indebtedness to these scientists, as also to Mr. H. G. Wells. Generally speaking, my task has been one of synthesis rather than of original research, but this is a very necessary form of work in these days when science, as Professor J. Huxley reminds us, "is over-specialized, and her right hand knoweth not what her left hand doeth."

In the following chapters, therefore, I have attempted to piece together the various fragments of scientific research relative to a subject which is of vital importance to every man and woman, and to present the reader with a more or less coherent picture. To this end I have taken great care in verifying my facts, and although many of the inferences and generalizations are of an original nature I am convinced that they are sound and logical.

Conspicuous among my original contributions to the subject are those generalizations to be found in the chapters dealing with the widespread notion of the inherent impurity of sexual intercourse and with the non-validity of the exaggerated importance so frequently attached to strict chastity. In the first of these chapters I venture to disagree very materially with no less an authority than Professor Westermarck who, in my view, has

paid far too scant attention to this very important subject. In the second matter I have endeavoured to show that a new moral code is in the process of development, and that this code, which deprecates chastity at the expense of mental and physical health as strongly as it condemns licentiousness, is established upon a firm scientific basis and not, as was the older code, upon mere prejudices and taboos.

Finally, I freely admit that the chapters dealing with my proposals relative to marriage and divorce law reform are frankly controversial and may arouse considerable opposition. It is indisputable, for example, that certain women regard marriage as a "safe" profession, and it is scarcely probable that such persons will be enamoured of the idea of freer divorce or the substitution of a scheme of pensions and gratuities—based upon equitable principles—for the existing laws governing divorce and the award of alimony. The laws at present in operation, however, reduce marriage in many cases to a veritable "pig in a poke" purchase, since a woman—although she may have lured her husband into matrimony by deliberately dissembling her true character, have proved utterly impossible to live with, and have separated from him after a comparatively brief period of cohabitation—is nevertheless legally entitled to prey upon him for the remainder of her life, while in cases of judicial separation, where a maintenance order has been granted, even her subsequent divorce and remarriage does not free her former husband from his financial obligations. The few women who are capable of taking advantage of such obviously unjust laws will inevitably oppose my proposed reforms to the utmost of their power, but I am convinced—for reasons clearly stated in the text—that, despite all opposition from such quarters, the principles which I have advocated will win recognition in the not far distant future.

RALPH DE POMERAI.

August, 1929.

CONTENTS

CHAPTER PAGE

I. THE ORIGIN OF MARRIAGE - - - - 1

Marriage myths among ancient peoples—Association of the sexes among lower species—Analogies between human and animal marriage—Natural marriage among the man-like apes—Part played by copula in cementing the association of the sexes—Part played by the gregarious instinct in natural marriage.

II. PRIMITIVE HUMAN MARRIAGE - - - 12

Evidence upon which a reconstruction may be attempted —Reasons for rejecting theory of primitive communal marriages—Examples of *jus primae noctis* and *droit du seigneur*—Anthropoid apes and primitive people predominantly monogamous—Primitive non-gregariousness due to inadequacy of food supply.

III. THE DEVELOPMENT OF POLYGAMY AND POLYANDRY - - - - - - - - 26

Primitive man subject to periodic rut—Relics of primitive rut still existing among certain peoples—Emancipation from primitive rut due to achievement of adequate food supply—Origin of social organization among Bonaks typical—Emancipation from rut and primitive taboos responsible for development of polygamy—Theory of sexual taboos—Examples of sexual taboos among various peoples—Social, economic and religious advantages of polygamy—The nature and incidence of polyandry.

IV. SEXUAL SELECTION IN MAN - - - - 48

Sexual selection among lower species—Typical beauty in man—Examples of preference for well-marked typical and racial characteristics—Cicatrization and tattooing originally intended to accentuate typical beauty and sexual characteristics—Examples—Dress originally intended to stimulate sexual attraction—Examples—Beauty as a factor in selection—Strength and courage as factors in selection—Fertility and domesticity as factors in selection.

V. SELECTION MODIFIED BY CIVILIZATION - - 63

Marriage by capture largely due to fear of incest—Reason for horror of incest—Exogamy and Endogamy—Examples of marriage by rape and capture—Surviving relics of primitive marriage by capture—Transition from marriage by

CHAPTER PAGE

capture to marriage by purchase—Examples of marriage by purchase—Evidence of universality of marriage by purchase—Marriage by dower—Comparative rarity of connubial affection among primitive peoples—Part played by development of connubial affection—Part played by desire for social, religious and cultural compatibility.

VI. THE DEVELOPMENT OF MONOGAMY, CONCUBINAGE, AND PROSTITUTION - - - - - 80

Status of wives determined by considerations of wealth and social prestige—Wife first married given precedence among various peoples—Favouritism among wives contributory to development of monogamy—Poverty sometimes contributory to monogamy—Resume of factors contributing to development of monogamy—Existing monogamic regime largely artificial—Civilized man more erotic than his savage forebears—Origin and nature of the concubinate—Development of prostitution—Unknown among primitive peoples—Originally due to development of marriage by purchase—Evils of prostitution—Development of greater sexual freedom and reintroduction of early marriages tending to eliminate prostitution—The Revolt of Youth against current sexual taboos—Modern sexual laxity largely due to excess of women and to greater knowledge of evils resultant from sexual repression.

VII. THE DEVELOPMENT OF MARRIAGE AS A RELIGIOUS INSTITUTION - - - - - - 107

Part played by primitive magic and religion in the evolution of marriage—Religion defined—Universality of religious rites—Creation and marriage myths among Jews and other primitive peoples—Evolution of Jewish beliefs—Jesus and St. Paul on marriage—Early Christian conception of marriage—Lay revolt against sacramental marriage.

VIII. THE DEVELOPMENT OF IDEAS CONCERNING CELIBACY AND ADULTERY - - - - - 119

Celibacy and sexual abstinence unknown among primitive peoples—Examples—Later development of idea that copula is impure—Married couples enjoined to observe temporary continence by Early Church—The true *jus primae noctis*—The story of Tobit—Initial period of continence required of wedded couples among various peoples—Examples—Reasons for the custom—Sexual reticence partially due to a sense of sacredness—Sexual abstinence being sometimes contributory to material success has contributed to sexual prejudices—Sexual hunger so clamant that successful repression commands certain respect—Non-procreative sexual activity thought to conflict with tenets of magic and religion

CHAPTER PAGE

—Sex deprecated by Youth as involving clash of interests —Sex deprecated by Christianity in view of supposed impending destruction of world—Sex deprecated as transmitter of Original Sin—Existing sexual taboos partly due to unconscious jealousy of Old Age—Adultery regarded as theft—Punishments for adultery among various peoples—Hatred of adultery largely due to an outraged sense of proprietorship—True affection and vengeance incompatible.

IX. REPUDIATION, PRIMITIVE DIVORCE, AND TRIAL MARRIAGES - - - - - - - 148

Repudiation among primitive and savage peoples—Examples—Repudiation not merely prerogative of man—Examples—Repudiation complicated by marriage by purchase—Primitive divorce a business dispute between husband and father-in-law, and subject to arbitration——Development of early divorce rules—Divorce laws among ancient peoples—Free unions and trial marriages as means of obviating mismatching—Examples of trial marriages—Birth control as argument for reintroduction of trial marriages.

X. THE DEVELOPMENT OF MODERN DIVORCE - 162

Marriage a religious obligation among ancient Aryans and Semites—Powers of father among Aryans and Semites—History of Jewish divorce—Divorce in ancient Greece—Segregation of wives in Greece—Constitution of Roman society—Powers of Roman father and husband—Types of marriage in ancient Rome—Development of Roman divorce—Views of Early Christian Fathers on divorce—Dogma of indissoluble matrimony a concession to expediency—Origin and development of English divorce laws—Divorce laws in modern European countries.

XI. CHRISTIANITY AND DIVORCE: A CRITICAL EXAMINATION OF THE DOGMA OF INDISSOLUBLE MATRIMONY - - - - - - - 183

The relationship of Christianity to its Founder—The inadequacy of the claim that Jesus was omniscient—Origin and authorship of the synoptic gospels—Why "Matthew" is a more reliable authority than Mark—Examination of the teaching of Jesus on divorce in gospel narratives—Milton's views on this teaching—Fornication held to constitute a ground for divorce by Jesus—Evidence for the assumption that fornication was equivalent to mental or temperamental or religious incompatibility—Summary of views of Jesus on divorce—Views of modern Anglican theologians on

CHAPTER PAGE

divorce—Teaching of Jesus on divorce probably influenced by contemporary moral prejudices.

XII. THE COMPLEXITY OF MODERN MATRIMONY - 209

Successful matrimony dependent upon compatibility—Compatibility not necessarily involving identity of tastes and temperament—Sexes differ psychically as well as physically—Biological evidence of sexual dimorphism—Variation in energy expenditure between the sexes—Males more variable than females—Greater variability responsible for excess of male genius—Mental and temperamental characteristics of men and women—Sexes mutually dependent on each other—Rut in the animals and in man—Relationship between high sexual potentiality and genius—Healthy sex life essential to both men and women—Sexual repression productive of disease and impaired vitality—Physical and psychical benefits of healthy sex life—Mental abnormalities and neuroses due to sexual repression—Necessity of sexual compatibility in marriage—Evil consequences of incomplete coitus and sexual anaesthesia—Importance of mental compatibility—Reasons of popularity of *hetairae* in ancient Greece—Masculine dependence upon feminine responsiveness—Increase in demand for mental and temperamental compatibility—Nature of such compatibility—Divorce necessary owing to impossibility of determining compatibility prior to marriage.

XIII. THE NECESSITY OF MARRIAGE AND DIVORCE LAW REFORM - - - - - - - - 238

Ideal monogamy free from legal restraint—Law by nature conservative—Refusal of divorce reform a censure on democratic government—Examples of insanity and inhumanity of English divorce and separation laws—Lack of equity in present award of alimony—The cult of *La Femme*—Successful matrimony involves more than cohabitation—Modern views on judicial separations—Statistics of English separations—The Revolt of Modern Youth—Moderate reform the only alternative to chaos.

XIV. PRACTICAL SUGGESTIONS RELATIVE TO REFORM - 258

The dangers of unrestricted freedom—Criticism of social recognition of companionate marriages—An examination of the Recommendations of the Royal Commission on Divorce and of the American Model Law—Incompatibility the primary reason of unsuccessful marriages—Incompatibility not assessable by any court of law—Principles to be observed in framing reforms—Non-cohabitation for one year as a legal ground for divorce—How such a law might be operated—Suggested scheme for pensions and gratuities for divorced wives—Suggested legal provisions for children

CHAPTER PAGE

—Alienation of affection of children suggested as legal grounds for forfeiture of custody or right of access—The Church and divorce law reform—Suggested modifications in existing Christian marriage vows.

XV. THE FAMILY, MARRIAGE, AND SEXUAL RELATIONSHIPS OF THE FUTURE - - - - - 296

Development of theory of *parens patriae* responsible for curtailment of parental rights—Advantages of increasing State control of children—Private family life responsible for considerable physical and psychical maldevelopment—Modern tendency towards greater State control of children—Modern woman's revolt against certain aspects of maternity—The advantages and disadvantages of maternity—Possibility of future alleviation of maternity—Inevitability of greater marital freedom in the future—Relationship of such freedom to morality—Theory of transcendental morality untenable—Pre-nuptial and extra-marital sexual relationships not necessarily immoral—Sexual activity as a matter for individual discretion—Absurdity of theory that woman is instinctively monogamous—Double code of morality invalid—Dangers of frequently recurrent pregnancies—Advantages of extra-marital sexual relationships and friendships—Dangers of immoderation and debauchery—Life an end in itself—Only true religion is *a religion of fuller life*—Necessity of the development of an adequate sense of values—The quality of deity emergent in man.

INDEX - - - - - - - 347

1

THE ORIGIN OF MARRIAGE

The problem of the origin of marriage has been a subject of speculation from time immemorial, and practically every race has embodied its own peculiar theory in some myth or tradition. Jews and Christians, at least until recently, drew upon the common tradition of the Creation myth enshrined in the opening chapters of the book of Genesis, and assumed that marriage was instituted by God Himself at the time of the creation of the first human pair, Adam and Eve. The traditions of the majority of other races, however, differ from the Jewish in the particular point that they do not recognize the antiquity of marriage and humanity as being equal. Thus, the Indian poem "Mahâbhârata" relates that originally "women were unconfined, and roved about at their pleasure, independent. Though in their youthful innocence, they went astray from their husbands, they were guilty of no offence; for such was the rule in early times." [1] This old rule, says tradition, was abolished by Swêtakêtu, and thereafter strict fidelity was demanded of both husbands and wives. In much the same way the Chinese annals record that "in the beginning, men differed in nothing from other animals in their way of life. As they wandered up and down in the woods, and women were in common, it happened that children never knew their fathers, but only their mothers." [2] This primitive promiscuity, according to the legend, was abolished by the Emperor Fou-hi, who instituted marriage. Similar legends also existed in ancient Egypt and Greece, the Egyptians

[1] Muir, J., *Original Sanskrit Texts*, vol. ii., p. 327.

[2] Gouget, A. Y., *The Origin of Laws, Arts, and Sciences*, vol. iii., pp. 311 ff.

believing that they were indebted to Menes,[1] and the Greeks to Kekrops,[2] for the institution of marriage.

The existence of such legends among primitive people is easily understandable. "Popular imagination," writes Professor Westermarck, "prefers the clear and concrete; it does not recognize any abstract laws that rule the universe. Nothing exists without a cause, but this cause is not sought in an agglomeration of external or internal forces; it is taken to be simple and palpable, a personal being, a god or a king. Is it not natural, then, that marriage, which plays such an important part in the life of the individual, as well as in that of the people, should be ascribed to a wise and powerful ruler, or to direct divine intervention?" [3] Myths, however, though affording an interesting insight into the psychology of primitive people, afford little reliable data as to the true evolution of human institutions, and this is especially true when such myths are invented in the interests of primitive religion. Thus the Creation myth of Genesis assumed that man was created in a state of perfection but fell from his original high estate, whereas modern science has established the fact "that man was at first a mere savage, and that the course of history has on the whole been a progress towards civilization, though at times—and at some times for centuries—some races have been stationary, or even have retrograded." [4] Further than this, biological science has demonstrated that the old theory of the immutability, or unchangeableness, of species, and its correlated doctrine of separate and special acts of creation for man and for the lower creatures, is untenable. Evolution is no longer a mere theory but an accepted scientific fact, and it is recognized that man is not only related to the anthropoid apes but also to all the lower species down to the amœba. Such being the case, it is inevitable that many instincts and habits, originally supposed to be exclusively

[1] Gouget, A. Y., *The Origin of Laws, Arts, and Sciences*, vol. i., p. 22.
[2] *Ibid.* vol. i., p. 19.
[3] Westermarck, E., *The History of Human Marriage*, p. 9.
[4] Lubbock, Sir J., *The Origin of Civilization*, p. 487.

human, are, in point of fact, ultimately derived from our sub-human ancestors.

Among such instincts and habits we must certainly include those governing parenthood, and it must be apparent to even the most casual observer that the conduct of a human and an animal mother presents many striking analogies. It must also be apparent that the behaviour of human beings and animals towards their mates presents too many similarities to permit them to be regarded as mere superficial resemblances, and when once this is recognized we shall have no difficulty in agreeing with Westermarck that "marriage, in the natural history sense of the term, does not belong exclusively to our own species." [1] In seeking for any real explanation of the origin of marriage, then, it is essential that we should make a temporary excursion into the realm of biology.

Among the lower forms of life the preservation of the species is, to a very great extent, a matter of pure chance. The eggs of insects are hatched by the sun; most young fishes are hatched without any assistance from their parents, while a great number of reptiles ignore their eggs when once they have chosen a suitable site in which to deposit them. In all these cases the survival of the species is primarily due to the prodigality of nature, for, inasmuch as millions of spawn and eggs are destroyed by untoward accidents or devoured by other species, and millions of offspring succumb before reaching maturity, it follows that, if the species is to survive, the excess of spawn or eggs laid over and above the number requisite for the survival of the species must always be sufficient to compensate for those destroyed. Nature, however, is rarely wantonly spendthrift, and her prodigality in the production of countless myriads of spawn and eggs is primarily due to the fact that the organisms in question are so simple in structure that they do not require any highly specialized reproductive organs in order to secure fertilization or incubation, and that the offspring, when once hatched, are immediately capable of fending for themselves. Because of

[1] Westermarck, *loc. cit.*, p. 6.

this, too, the association of the parent organisms is of the most perfunctory type; parenthood is secured with a minimum of disability, and parental functions are restricted to the act of fertilization and to the selection of a suitable site for the spawn or eggs. Very frequently, too, there is no direct act of copula involved in reproduction, and, as no useful purpose would be served by any intimate association of the sexes, nature has taken no steps whatever towards the achievement of such a superfluous end.

Among the higher species, however, parenthood is a much more complicated affair and involves considerable disability and responsibility. Thus, among the higher Vertebrata, we find that prolonged incubation, frequently followed by a period of infantile helplessness, is a concomitant of structural complexity; hence the necessity for a more or less prolonged and intimate association of the parents. Among most birds, for example, both parents co-operate in the work of nest-building; fertilization is secured by a direct act of copula, and although the female bird usually sits upon the eggs during the period of their incubation, the male bird invariably supplies her with food while she is thus handicapped, and not infrequently even shares the duties of sitting, at least for relief periods. Further, even after the eggs are hatched, the immature offspring are quite incapable of fending for themselves and must be nourished and protected by the parents.

Again, among mammals, reproduction is accompanied by a more or less lengthy period of gestation, followed by a period of lactation. Among the Carnivora, it is naturally the male who does the bulk of the hunting during these periods, and similarly, among the vast majority of mammals, it is the male who fills the rôle of protector of his progeny during their helpless infancy, although the duties of protection and education are also shared by the female. This is especially noticeable among the species most closely allied to man, the anthropoid apes. Thus Lieut. C. de Crespigny relates of the orang-utan of North Borneo that "they live in families—the male, female, and a young one.

On one occasion I found a family in which were two young ones, one of them much larger than the other, and I took this as a proof that the family tie had existed for at least two seasons. They build commodious nests in the trees which form their feeding ground, and, so far as I could observe, the nests, which are well lined with dry leaves, are only occupied by the female and young, the male passing the night in the fork of the same or another tree in the vicinity." [1] Dr. Wallace similarly records that he sometimes found not only females, but also males, accompanied by half-grown young ones,[2] and as other authorities have made similar observations it may legitimately be assumed that a strong family tie exists among the orang-utans.

The habits of the orang-utan, moreover, are by no means exceptional among the man-like apes, and there is abundant evidence to show that what is true of the orang-utan is true also of the gorilla and the chimpanzee. Thus, writing of the gorilla, Mr. Du Chaillu declares that he found "almost always one male with one female, though sometimes the old male wanders companionless";[3] and Mr. Winwood Reade likewise states that the gorilla goes "sometimes alone, sometimes accompanied by his female and young one."[4] An even greater similarity between the habits of the orang-utan and the gorilla is recorded by Herr von Koppenfells, who states that the male gorilla spends the night crouching at the foot of the tree in which the female and young are sheltering, chiefly in order to protect them from the nocturnal attacks of leopards. He also states that he once observed a male and female with two young ones of different ages, the elder being perhaps about six years old, the younger about one.[5] The same author also states that the chimpanzee, like the gorilla, builds a nest for the young and

[1] *Proceedings of the Roy. Geo. Soc.*, vol. xvi., p. 177.

[2] Wallace, A. R., *The Malay Archipelago*, vol. i., p. 93.

[3] Du Chaillu, P. B., *Explorations and Adventures in Equatorial Africa*, p. 349.

[4] Reade, W., *Savage Africa*, p. 214.

[5] Koppenfells, v., "Meine Jagden auf Gorillas" in *Die Gartenlaub*, pp. 418 ff.

female on a forked branch, the male spending the night lower down the tree.[1] Similarly, Dr. Savage, also describing the habits of the chimpanzee, writes, " It is not unusual to see the ' old folk ' sitting under a tree regaling themselves with fruit and friendly chat, while ' their children ' are leaping around them and swinging from branch to branch in boisterous merriment." [2]

The analogy presented by such descriptions of the family tie which exists among the anthropoids and that which, according to the evidence of innumerable travellers and trained observers, exists even down to the present time among many primitive human communities, is so close that the impartial student is compelled to concede that natural marriage among human beings is fundamentally identical to natural marriage among the animals—especially among the anthropoids. It may be admitted, then, that Westermarck's definition of natural marriage as " nothing else than a more or less durable connection between male and female, lasting beyond the mere act of propagation till after the birth of the offspring," [3] is substantially correct. Up to a point, too, there is a certain amount of justification for his claim that " marriage is therefore rooted in family, rather than family in marriage,"[4] but this dictum does not necessarily present the whole truth, and leaves many problems unsolved. One such problem will readily present itself to the thoughtful reader. How, it will be asked, is it that nature is able to secure an intimate and lasting association of the sexes among the higher species which is entirely absent among the lower ? Westermarck refers us to the family, but offspring also exist among the lower species, although admittedly there is nothing remotely resembling family life among them. It is true, of course, that the development of family life involves an

[1] Koppenfells, v., *loc. cit.*, p. 418.

[2] Savage, T. S., " On *Troglodytes Niger*," in *Boston Journal of Natural History*, vol. iv., p. 385.

[3] Westermarck, *loc. cit.*, pp. 19-20.

[4] *Ibid.* p. 22.

increase in the intimacy and durability of the association of the parents, but the bald statement of fact affords no explanation. Similarly, it is true that the offspring of the higher and more complex species require more attention than do those of the lower and simpler species, and that without such attention they would die and the species would become extinct. But why should this unrealized fact—and unrealized it must be unless we credit the organisms in question with powers of reasoning and foresight far beyond their mental capacity—cause the parent animals to adopt habits of life diametrically opposed to those followed by their lineal ancestors among the lower species? To this it may be replied that the higher animals possess instincts not possessed by the lower, and that the development of the family instinct is a concomitant of structural complexity, but unless we can give some explanation of how this instinct—if instinct it be—came into being, and the manner in which it operates, it will immediately be apparent that we are merely misusing the term instinct in order to cover a very material gap in our knowledge.

A clue to the origin of this alleged family or parental instinct has already been given, however, for we have commented upon the fact that among the lower species the absence of any strong intimacy between the sexes occurs conjointly with the absence of any act of copula, and that the non-existence of any real family life is associated with simplicity of bodily structure, the ease with which reproduction is accomplished, and the ability of the offspring to fend for themselves immediately after they are hatched. This will at once suggest that the intimacy of the sexes among the higher species is explained, at least partly, by the presence of an act of copula, and that the maternal bond is not altogether disconnected with the possession of highly specialized reproductive organs, and with the functions of gestation, parturition, and lactation. It is possible to assume, then, that such conjugal and parental affection as exists among the higher species, and which, at first sight, seems to be governed by altruistic motives, is really rooted in an egoistical urge for

self-satisfaction. Thus the mother's devotion to her offspring appears to be founded upon the enjoyment of such bodily functions as copulation, gestation, and lactation, while the father's continued attachment to the mother is primarily due to his memory of an act of copula, involving intense physical and emotional excitation, enjoyed in the past, and to his anticipation of the repetition of similar enjoyments in the future. It is possible, too, that animals share, at least to some degree, that satisfaction felt, though rarely admitted, by many human parents in the exercise of complete and autocratic power over fellow-creatures who are entirely subservient to their will and dependent upon their bounty.

It is demonstrably true, of course, that the initial mating of most animals coincides with the onset of the rutting season, and that their actions are initiated by the increasing insistence of a sexual or physiological urge due to definite changes in the structure and functioning of the reproductive organs. It is also true, moreover, that their conduct in courtship and during the time the pair remain together or with their offspring is largely determined by the functioning of that type of racial memory (mneme) which we call instinct. The instinct operating in this case is obviously the sex instinct, and the important, and perhaps primary, purpose which it serves in the large scheme of Nature is the perpetuation of the species. But the question may here legitimately be asked, Is it the only purpose? Some of our more materialistic scientists would unhesitatingly answer yes, but these same scientists have landed themselves in some rather curious quandaries. In one breath, for example, they exclaim that there is no Creator, scheme, or purpose behind life, and that the phenomenal universe is the chance product of an interplay of blind mechanical forces, yet in the very next breath they practically personify Nature and accredit her with at least one very definite purpose—the self-preservation and propagation of life. They cannot have it both ways, however, and if there is a purpose behind life that purpose would seem to be the product of a Mind, and a Mind of supra-human intelli-

gence. Assuming for the moment that such a Mind or Creator exists, it would appear that His great purpose is the evolution of higher forms of life, and that the self-preservation and propagation of any particular species is merely a means to this end, and not the end itself. If man, as is generally admitted, is the highest product of life yet evolved, his only claim to this dignity is based upon his mental and spiritual superiority. But man himself is a product of evolution, and this applies to his mind no less than his body, and his mental pre-eminence would have been impossible had he not been a social being. Man, in brief, would not have existed but for the possession of both the sex and herd instinct by his animal ancestors, and if he is not the mere result of an evolutional accident we may rightly expect to find as much care expended upon the development of the social instinct among his forebears as upon the sex instinct.

The question of purpose or guidance aside, it is significant to note that among those species possessing a strongly marked sex instinct the herd instinct is also conspicuously active, and this in spite of the fact that many mammals are loosely described as non-gregarious. In point of fact, the sole reason why these creatures have been so termed is simply because they do not habitually congregate in large herds, flocks, droves, or packs, but only in small family units. It would be false to assume, however, that the absence of group or herd life on any considerable scale implies that the species in question do not possess the gregarious or herd instinct, for the very contrary is true. Thus, numerous observers, and especially Mr. W. J. Long,[1] have testified that all these animals, including those reputed to live comparatively solitary lives, will freely associate with others of their kind, and sometimes even with members of other species, when there is an abundance of food (the author can also testify to this), thus conclusively proving that the absence of herd life among them during most of the year is not due to any lack of the gregarious instinct but simply to the fact that the difficulty normally experienced in obtaining an adequate food-supply

[1] Long, W. J., *The School of the Woods, Brier-Patch Philosophy.*

necessarily forces them to develop habits of life other than those dictated by their natural inclination. It may be argued, therefore, that natural marriage, or family life, among creatures such as these satisfies a very distinct social end, for whereas countless regions exist in which food supplies are inadequate to satisfy the requirements of large social groups, few districts exist that are incapable of supplying the needs of a single pair, or of a small family unit. In brief, thanks to the development of the herd instinct among the higher species, the animal, like man, finds that it is not good to live alone, and experiences a strong urge to find among his or her own kind a suitable mate—a helpmeet.

To revert then to Professor Westermarck's dictum that marriage is rooted in the family, it will at once be seen that if by the "family" he means to infer that the prolonged association of the sexes (*i.e.* parents) is due solely to the presence of offspring, and to the operation of a parental instinct which is concerned simply with the preservation of the species by reproduction, this is very far from being the whole truth. The sex instinct and a physiological urge are undoubtedly very largely responsible for the initial mating of any two animals; copula undoubtedly serves to strengthen and cement the union, and the parental instinct—fostered largely by pleasurable physiological functions, and by a very tangible satisfaction engendered by the possession and exercise of complete power and authority over fellow creatures—indubitably explains, at least in part, why it is that the association of the sexes lasts till after the birth of the offspring, but it does not explain why the male refrains from deserting the female during the lengthy period of gestation, or why the exercise of power and authority over the offspring should be pleasurable, and more especially does it fail to explain why it is that the association of the parents is not discontinued immediately after the offspring have deserted them. None of these facts are explicable unless we are prepared to admit that the herd instinct among the higher animals is as insistent and as strongly developed as are the sex and parental instincts. There are ample facts to prove, then, that the higher animals do not mate solely in order

to propagate their kind, but that they are also urged to do so by the insistence of the gregarious instinct. Some sort of companionship is as necessary to these animals as to human beings, and this alone explains the development of a strong attachment between a pair, such as frequently occurs, and why it is that they continue their association after the break-up of the family. Animal marriage, in short, is as much a social as it is a procreative expedient.

II

PRIMITIVE HUMAN MARRIAGE

Any attempt to describe natural marriage as it existed among our earliest human ancestors must necessarily, since they left no written or pictorial records of their customs or mode of life, partake of the nature of a reconstruction based upon indirect evidence. Such indirect evidence, however, is by no means lacking, and is mostly derived from two principal sources. On the one hand, numerous customs, myths, and legends—bearing every sign of considerable antiquity—still survive among races in various stages of cultural development, and these help us very materially in attempting to picture the social conditions prevailing among our very early, if not our earliest, human ancestors. On the other hand, innumerable historians—both ancient and modern—anthropologists, ethnologists, travellers, and explorers have collected a vast amount of material relative to the customs and social conditions of savage or semi-savage people living at the time when they made their observations. These facts are further augmented by the observations of field naturalists on the habits of those animals nearest akin to man; hence the modern sociologist, remembering that man is the product of an evolutional process, may legitimately assume that our original human ancestors, both in bodily structure and habits of life, must have resembled the anthropoid apes, on the one side, and the lowest surviving types of humanity, on the other.

It is possible, therefore, with the wealth of data which modern science and travel have placed at our disposal, to make such a reconstruction as we propose attempting with a reasonable prospect of accuracy. Such an attempt, however, was much more difficult in the middle of the last century when the

science of modern sociology was in its infancy, and it must be admitted that many of the theories then advanced, appear now, in the light of the additional facts at our disposal, to be little short of grotesque. Unfortunately such scientific theories, like many religious creeds, when once they have been popularized take an unconscionable long time in dying, and as at least one particularly pernicious theory about primitive marriage, or rather its absence, still betrays every sign of considerable vitality, it will be profitable to attempt to dispose of it before venturing upon our own reconstruction.

The theory in question is one which claims, and attempts to prove, that our original human ancestors lived in a state of promiscuity, and numerous sociologists, including such eminent men as Lubbock, Morgan, Bastian, Giraud-Teulon, and Bachofen, have stated this to be their considered opinion. Not all of these writers, however, believed such promiscuity to be entirely indiscriminate, and the variation of the promiscuity hypothesis which won the most general acceptance at the time, and which still enjoys considerable popularity, was that advanced by Sir John Lubbock. This eminent sociologist held that the most primitive type of human marriage was "communal marriage," [1] and he described this relationship as one in which all the men and women in a social group or community were regarded as equally the husbands and wives of each other.[2]

The evidence on which these theories of communal marriage and primitive promiscuity were based was drawn chiefly from the records of certain ancient writers; the observations of numerous travellers (who declared that certain surviving savage or semi-savage people still lived in complete or partial promiscuity); and upon the existence among many races of certain customs which were assumed to be social survivals of a state of civilization in which natural marriage (as found among the higher animals) was unknown. It is now recognized by competent modern sociologists, however, that the data upon which

[1] Lubbock, *The Origin of Civilization*, pp. 86 ff.

[2] Cf. tradition recorded in Chinese annals.

the theories were founded was frequently inaccurate. Thus Westermarck rightly reminds us that: "Ethnography was not seriously studied by the ancients, and their knowledge of the African tribes was no doubt very deficient. Pliny, in the same chapter where he states that, among the Garamantians, men and women lived in promiscuous intercourse, reports of another African tribe, the Blemmyans, that they had no head, and that the mouth and eyes were in the breast." [1] It is apparent, therefore, that ancient authorities are by no means as reliable as was once supposed.

It has been discovered also that the observations of many modern writers and travellers are not infrequently as inaccurate as were those made by the ancients. The word "marriage" is somewhat ambiguous, and the looseness of the marriage tie, the not uncommon absence of any form of marriage ceremony, the frequency of divorce, and the occurrence of unfamiliar types of marriage among primitive people have deceived travellers and caused them to make false assumptions. Thus more recent investigations by trained sociologists have shown quite clearly that many of the reported cases of general promiscuous intercourse among primitive people have been founded upon insufficient observation, or upon the presence of polygamy, polyandry, or general laxity in sexual intercourse.

Furthermore, many surviving customs commonly assumed to be relics of a state of civilization in which marriage was unknown, have proved amenable to vastly different interpretations. Conspicuous among such customs may be mentioned the survival, until comparatively recently, of the practice of *jus primae noctis* [2] and *droit du seigneur*. Records of these customs abound among both ancient and modern writers. Thus Herodotus informs us that a Babylonian woman was obliged, once in her life, to give herself up to a stranger in the Temple of

[1] Westermarck, *loc. cit.*, pp. 59-60.

[2] *Note.*—According to Frazer, the term *jus primae noctis* is misapplied to this practice; the term originally being restricted to the ecclesiastical permit which authorized a couple to cohabit on their wedding night (see p. 123).

Mylitta, and Strabo affirms that the daughters of good families in Armenia were obliged to perform a like service in the Temple of Anaitis.[1] Similarly, Lubbock informs us that Indian virgins living in the Ganges valley were compelled to offer themselves before marriage in the temples dedicated to Juggernaut.[2]

These practices, however, evidently belong to phallic-worship—both Mylitta and Anaitis were phallic divinities—and occurred only, as McLennan rightly reminds us, among peoples who were comparatively highly civilized and had advanced far beyond the primitive state. Thus, writing of India, he points out that the further we go back in history the less evidence we find of such practices, and that "the germ only of phallic-worship shows itself in the Veddas, and the gross luxuriance of licentiousness, of which the cases referred to are examples, is of later growth." [3]

In addition to the foregoing types of *jus primae noctis* there are others which cannot possibly be attributed to phallic-worship. These exist all over the world, and chief among them is the practice of surrendering a maiden to a priest, headman, induna or cacique; the wedding guests; or the groom's companions or assistants, either on the wedding night or shortly before or after. Thus Vega asserts that a condition of marriage in the Manta province of Peru was that the bride should first yield herself to the relatives and friends of the bridegroom.[4] Similarly, among the natives of Nukahiva, the bride was considered to be the common property of all the wedding guests for one night, but thereafter was the exclusive property of her husband.[5]

Arguing from facts such as these Lubbock expressed the opinion that the custom was an expiatory act for individual marriage, and maintained that "the exclusive possession of a

[1] Quoted by Westermarck, *loc. cit.*, p. 72.
[2] Lubbock, *The Origin of Civilization*, pp. 535 ff.
[3] McLennan, J. F., *Studies in Ancient History*, p. 341.
[4] Vega, Garcilasso de la, *Royal Commentaries of the Yncas*, vol. i., p. 442.
[5] Langsdorf, G. H. von, *Voyages and Travels*, vol. i., p. 153.

wife could only be legally acquired by a temporary recognition of the pre-existing communal rights." [1] The facts, however, are inadequate to support this theory, for it will be noticed that the privilege is extended only to the wedding guests or the relatives and friends of the groom, whereas, as McLennan justly remarks, there should be no such limitation of the privilege were the custom a survival of an ancient communal right.[2] Moreover, if we compare these customs with other variations of the practice of *jus primae noctis* prevailing in different parts of the world it will be found possible to interpret them simply as examples of a form of primitive hospitality. Thus, writing of the coast tribes of British Columbia, Mr. Sproat records that "the temporary present of a wife is one of the greatest honours that can be shown to a guest," [3] while Richardson informs us that, among the Eskimo, such an offer was considered "an act of generous hospitality." [4] It is also recorded by Du Chaillu that a similar type of hospitality is "the common custom when the negroes wish to pay respect to their guests," [5] and the author can testify that it is also practised among several of the Bantu tribes —indeed the custom once occasioned him very considerable personal embarrassment.

Even this simple form of hospitality, however, has been wilfully or accidentally misinterpreted by sociologists, for Lubbock maintained that it involved the recognition of "a right inherent in every member of the community, and to visitors as temporary members." [6] Westermarck's retort to this appears to us to be an adequate refutation. "It is not always the wife that is offered," he writes, "it may well be a daughter, a sister, or a servant. Thus the people of Madagascar warn strangers to behave with decency to their wives, though they will readily offer their daughters; and it is asserted that a Tungus 'will give his daughter for a time to any friend

[1] Lubbock, *loc. cit.*, p. 536. [2] McLennan, *loc. cit.*, p. 341.
[3] Sproat, G. M., *Scenes and Studies of Native Life*, p. 95.
[4] Richardson, J., *Arctic Searching Expedition*, vol. i., p. 356.
[5] Du Chaillu, *loc. cit.*, p. 47. [6] Lubbock, *loc. cit.*, p. 132.

or traveller that he takes a liking to,' and if he has no daughter, he will give his servant, but not his wives." [1] That the custom is, in many cases, a form of hospitality or a reward for services rendered to the husband is clearly proved by the following examples. Writing of the capture of wives among the natives of New South Wales, Mr. Brough Smyth states that, "in any instance where the abduction has taken place by a party of men for the benefit of some one individual, each member of the party claims, as a right, a privilege which the intending husband has no power to refuse." [2] A survival of the same custom, though the capture is now only a symbol, is practised in East Africa among the Wa-taïta. Thus, according to Sir H. H. Johnston, a girl, after she has been purchased by the bridegroom, runs away and pretends to hide. She is then sought out by the husband and three or four of his friends, and, when found, is carried to the hut of her future husband and placed at the disposal of her captors.[3]

There are other instances of *jus primae noctis* accorded to a particular person, such as a chief or priest, which are equally interesting. This right, for example, belongs to the Ankut, or high-priest, among the Kinipetu-Eskimo,[4] while among the Caribs it is accorded to the Piache, or medicine-man, from whom the bridegroom receives his bride.[5] Not infrequently, however, the custom seems to merge into that of *droit du seigneur*. Thus, among the Kalmucks, the priests, who are forbidden to marry, are nevertheless permitted to pass a night with any man's wife, and their attentions are regarded as a favour by the husband,[6] while Egede informs us that the women of Greenland esteem it a favour if they are honoured with the caresses of an Angekokk, or prophet, and that their husbands sometimes pay him for his

[1] Westermarck, *loc. cit.*, p. 74.
[2] Smyth, R. Brough, *The Aborigines of Victoria*, vol. ii., p. 316.
[3] Johnston, H. H., *The Kilimanjaro Expedition*, p. 431.
[4] Westermarck, *loc. cit.*, p. 76.
[5] Waitz, Th., *Anthropologie der Naturvölker*, vol. iii., p. 382.
[6] Moore, T., *Marriage Customs*, etc., p. 182.

favours in the belief that the child of a holy man must be happier and better than other children.[1] Similarly, Mr. Hamilton reports that a bride, among the natives of the Malabar coast, is given to the chief priest, "because the first fruits of her nuptials must be a holy oblation to the god she worships."[2] In other cases the granting of this right to a priest was merely an attempt on the part of the husband or wife, or both, to secure his favour, and thus indirectly the favour of the god whom he served, and there is considerable evidence to show that the priests of many lands soon came to take advantage of this and sometimes enforced what was literally *droit du seigneur* under threats of priestly and divine disfavour.

The custom of *droit du seigneur* proper has existed at some time or other in almost every part of the world. Thus, in Persia, it was a legal principle that any woman who was touched by the king remained immaculate, and he had the right to go into the harem of any of his subjects.[3] Among the Kukis, writes Dalton, "all the women of the village, married or single, are at the pleasure of the rajah."[4] In Dahomey, all women belonged to the king, and he caused every girl to be brought to him before marriage, and could, if she won his favour, retain her in his palace.[5] According to numerous authorities, moreover, the right was recognized in many parts of Europe, and was enjoyed by many of the French nobility up to the time of the Revolution, while in Russia it was insisted upon and accorded to some of the great landlords until as recently as the last century. As evidence of this the following account is of considerable interest. "Often N. I——tsch would stroll late in the evening about his village to admire the prosperous condition of his peasants; he would stop at some cottage, look in at

[1] Egede, H., *A Description of Greenland*, p. 140.

[2] Hamilton, A., "A New Account of the East Indies," in Pinkerton, *Collection of Voyages and Travels*, vol. viii.

[3] Moore, *loc. cit.*, p. 161.

[4] Dalton, E. T., *Descriptive Ethnology of Bengal*, p. 45.

[5] Burton, R. F., *A Mission to Gelele, King of Dahome*, vol. ii., p. 67.

the window, and tap on the pane with his finger. This tapping was well known to everybody, and in a moment the best-looking woman of the family went out to him. . . . Another landlord, whenever he visited his estate, demanded from the manager, immediately after his arrival, a list of all the grown-up girls. . . . Then the master took to his service each of the girls for three or four days, and as soon as the list was finished, he went off to another village. This occurred regularly every year." [1]

Although the custom of *droit du seigneur* has been attributed by the writers whom we have already mentioned to a survival of (assumed) primitive communal marriage, it would seem that they have only arrived at this conclusion by straining at gnats and swallowing camels. Thus, it would obviously be far simpler to assume that it was a survival of autocratic power possible only among people possessing a very considerable amount of social organization, and this assumption is indubitably far more in accord with the known facts. "The right of encroaching upon the marital rights of a subject," writes Westermarck, "is not commonly restricted to the first night only. Where the chief or king has the power of life, and death, what man can prohibit him from doing his will?" [2] Consequently, he is of the opinion that the custom of *droit du seigneur*, like that of *jus primae noctis*, has "nothing to do with 'communal marriage.'" [3]

One further custom, sometimes claimed to support the theory of primitive communal marriage, needs only to be mentioned. In certain communities kinship is claimed through the female only, and the children are named after the mother rather than the father. These facts, together with others very much more complicated,[4] are held to be conclusive evidence that the paternity

[1] Westermarck, *loc. cit.*, pp. 79-80 (quoted from "Notes of a Country Clergyman," in *Russian Antiquity*).

[2] Westermarck, *loc. cit.*, p. 78. [3] Westermarck, *loc. cit.*, p. 80.

[4] Mr. Lewis H. Morgan, in his *Systems of Consanguinity and Affinity*, seeks to prove the theory of "group" marriages from primitive categories of relationships, and quotes, among others, those categories prevailing among the Malayan, Maori, Melanesian and Polynesian peoples. Dr. W. Rivers, however, shews that all these cultures are related and that their concepts of

of the children was doubtful—that while motherhood was unmistakable, fatherhood could not be satisfactorily established where the women were the common wives of all the men of the clan. Thus, according to Sir Henry Maine, "paternity is a matter of inference, as opposed to maternity, which is a matter of observation." [1]

Professor Westermarck, however, rightly reminds us that this custom of naming the child after the mother rather than the father is capable of vastly different explanations. "Among savages," he writes, "the tie between mother and child is much stronger than that which binds a child to the father. . . . Moreover, in cases of separation, occurring frequently at lower stages of civilization, the infant children always follow the mother, and so, very often, do the children more advanced in years. . . . It is a customary arrangement in polygynous families that each wife has a hut to herself, where she lives with her children; but even where this is not the case, mother and children naturally keep together as a little sub-family. No wonder, then, if a child takes its name after the mother rather than after the father. This is the simplest way of pointing out the distinction between the issue of different wives, a distinction which is of special importance where it is accompanied by different privileges as to succession." [2]

We have now critically examined most of the important

relationship differ materially from our own. "A Melanesian term which we translate father," he writes, "is also applied to all the brothers of the father and the husbands of the mother's sisters. . . . Thus 'father' is obviously a wholly inappropriate rendering." In order to shew what confusion may arise from fundamentally different concepts, he pictures the confusion that would arise in the mind of a Melanesian sociologist who superficially investigated our European system of relationships. "He would soon find," writes Dr. Rivers, "that we use terms of relationships in a way which to him is hopelessly confused and inexact. . . . He would find that we include under these two terms (uncle and aunt) relationships which he distinguishes very carefully . . . that we often apply the term cousin not merely to persons of our own generation but to those of older and younger generations than ourselves, betraying, it would seem to him, an almost inconceivable looseness of thought." (*Psychology and Ethnology*, pp. 44-5.)

[1] Maine, Sir H., *Dissertations on Early Law and Customs*, p. 202.

[2] Westermarck, *loc. cit.*, pp. 107-8.

facts brought forward as evidence of an assumed primitive state of human promiscuity, and have found that these not only fail to establish the theory but are capable of a vastly different interpretation. But this is not all, for not only is there a conspicuous absence of any real evidence of promiscuity or communal marriages having been indulged in on any large scale in primitive times, but there is also direct evidence to show that such a social arrangement was highly improbable, if not actually impossible. Man, as we have already pointed out, is the product of an evolutionary process, hence it is quite certain that our earliest human ancestors occupied a position intermediate between the man-like apes and the lowest or most primitive peoples known to anthropology. It is reasonable to suppose, therefore, that if promiscuous sexual intercourse or communal marriages were the rule among our earliest human ancestors we should find similar habits among either the anthropoids or the most primitive surviving races, or both. But this is not the case. The male orang-utan, gibbon, gorilla, or chimpanzee, possesses either one or more mates—in most instances only one—and in no case is he known to share her, or them, with any other male. Similarly, the Veddahs, Bushmans, Igorrotes, Fuegians, and Australian aborigines are among the most primitive peoples now surviving, but communal marriages are unknown among them. The hypothesis, in short, is quite untenable, and particularly so in view of the fact that, among both the higher animals and primitive peoples, jealousy and pugnacity are conspicuous characteristics. It is common knowledge that innumerable male mammals engage in deadly combats for the possession of a coveted female, and, as we shall show later, similar combats are not infrequent among the males of savage races. With man, then, as with the higher animals, "primitive law is the law of might; and it is impossible to believe that the stronger men, who generally succeeded in getting the most comely women, voluntarily gave their weaker rivals a share in their precious capture." [1]

[1] Westermarck, *loc. cit.*, p. 132.

Arguing, therefore, from the analogy of the man-like apes and savage peoples, we may legitimately assume that a primitive human family consisted of a single male and female (and occasionally two or more females) and their offspring; that these families—except when food supplies were particularly plentiful—formed isolated units, and that the marriage tie, or association of the sexes, usually lasted at least until after the birth of the offspring, and not infrequently for long periods, or even for life, but that it was liable to be cut short by caprice or sickness or other disabilities.

The assumption that the primitive form of human marriage was in the main monogamous, and only rarely polygamous, is legitimate in view of the habits of the man-like apes and the most primitive surviving peoples. Evidence that the orang-utan, gorilla, gibbon, and chimpanzee are mostly monogamous has already been given, and a few examples will serve to show that the least civilized races are also predominantly monogamous. The Veddahs of Ceylon, says Mr. Bailey, are strictly monogamous,[1] and this also applies to the Nagas of Upper Assam [2] and the Igorrotes of Luzon.[3] Similarly, Mr. Curr informs us that, among the Australian aborigines, monogamy is the rule in the Eucla,[4] Karawalla, Tunberri,[5] and Birria tribes, remarking of the latter that "the possession of more than one wife is absolutely forbidden, or was so before the coming of the whites." [6] Again, Burchell reports that, among the Bushmans of South Africa, a second wife is never taken before the first has become old,[7] and Mr. Barrow [8] corroborates this statement. In addition to this evidence, it may be pointed out that those conditions which are responsible for the predominantly solitary habits

[1] Bailey, J., in *Trans. Ethn. Soc.*, n.s., vol. ii., pp. 291 ff.

[2] Dalton, E. T., *Descriptive Ethnology of Bengal*, pp. 41, 132.

[3] Foreman, J., *The Philippine Islands*, p. 216.

[4] Curr, E. M., *The Australian Race*, vol. i., p. 402.

[5] *Ibid.* vol. ii., p. 371. [6] *Ibid.*, vol. ii., p. 378.

[7] Burchell, W. J., *Travels into the Interior of Southern Africa*, vol. ii., p. 60.

[8] Barrow, J., *An Account of Travels into the Interior of Southern Africa, in the Years* 1797-8, vol. i., p. 276.

of the man-like apes and most surviving primitive peoples would have rendered a plurality of wives, except in very rare circumstances, extremely impracticable among our earliest human ancestors.

The term "non-gregarious," when applied to the higher species, simply means, as has already been indicated, that the animals thus designated do not habitually congregate in any considerable numbers, and that the reason of this is the difficulty experienced in obtaining food and is not to be attributed to a lack of the herd instinct. Indeed, many animals that habitually congregate in large herds or flocks are forced to depart from their normal habits in times of scarcity. Thus the author frequently noted that while all the African antelopes and gazelles congregated in herds at the commencement of the rainy season, and remained together as long as the grass was short and young—he has frequently seen many hundreds of head of antelopes and gazelle, together with zebra and giraffe, feeding in the same vlei—they separated again as soon as the grass became long and dried up, and thereafter it was comparatively rare to find two or three together. Naturally enough, this also reacted upon the habits of the carnivores who preyed upon them. Thus a district at one time of the year would literally abound with lions, leopards, jackals, hyenas, hunting cats, and wild dogs, while at other times these animals would be comparatively scarce and widely scattered.

Among the more or less habitually non-gregarious animals we must certainly include the man-like apes, and there can be no doubt that the absence of herd habit among them is due entirely to the nature of their food. Thus, Dr. Savage reports of the chimpanzees that "they are more often seen in pairs than in gangs," and that they are more numerous in the season when the greatest number of fruits come to maturity.[1] The author has also been informed by Congo natives that gorillas are more frequently seen together when wild fruits are most abundant, and he has received similar reports of the orang-utan from

[1] Savage, in *Boston Journal of Natural History*, vol. iv., p. 384.

several Dutch hunters resident in the Netherlands East Indies.

Assuming, then, that our earliest human ancestors, like the man-like apes, subsisted principally upon fruits, we are forced to the conclusion that their habits of life must have been very similar—that they usually lived in small family units and not in large gangs. It must also be concluded that similar habits prevailed when man became partly carnivorous, for the difficulties experienced in obtaining food would certainly not be greatly lessened. "An animal of a predatory kind," writes Spencer, "which has prey that can be caught and killed without help, profits by living alone: especially if its prey is much scattered, and is secured by stealthy approach or by lying in ambush. Gregariousness would here be a positive disadvantage. Hence the tendency of large carnivores, and also of small carnivores that have feeble and widely-distributed prey, to lead solitary lives." [1]

The assumption that primitive man for the most part lived in isolated family units is further strengthened by the evidence which we possess of the habits of some of the most primitive existing savages. According to Lichtenstein, the Bushmans live in small hordes chiefly because of the difficulty found in obtaining food, and he writes of them, "the smaller the number, the easier is a supply of food obtained." [2] Of the Fuegians, Admiral Fitzroy reports, "Scarcity of food, and the facility with which they move from one place to another in their canoes, are, no doubt, the reasons why the Fuegians are always so dispersed among the islands in small parties, why they never remain long in one place, and why a large number are not seen many days in society." [3] Tribal life is, for the same reason, conspicuously absent among many of the Australian aborigines. Thus the Rev. A. Meyer writes of the Encounter Bay tribe that

[1] Spencer, H., *The Principles of Psychology*, vol. ii., p. 558.

[2] Lichenstein, H., *Travels in Southern Africa*, vol. ii., pp. 49, 194.

[3] King and Fitzroy, *Narrative of the Surveying Voyages of the "Adventure" and "Beagle,"* vol. ii., pp. 177 ff.

" the whole tribe does not always move in a body from one place to another, unless there should be abundance of food to be obtained at some particular spot; but generally they are scattered in search of food," [1] while, writing of the Australian tribes as a whole, Mr. Brough Smyth remarks that " in any large area occupied by a tribe, where there was not much forest land, and where kangaroos were not numerous, it is highly probable that the several families composing the tribe would withdraw from their companions for short periods and betake themselves to separate portions of the area." [2] It is also recorded by Mr. Wyeth of the Snakes, an Indian tribe inhabiting a somewhat inhospitable region to the south of the Snake River, that : " The paucity of game in this region is, I have little doubt, the cause of the almost entire absence of social organization among its inhabitants; no trace of it is ordinarily seen among them, except during the salmon-time, when a large number of the Snakes resort to the rivers, chiefly to the Fishing Falls, and at such places there seems some little organization . . . the remainder of the year would be spent by them in families widely spread apart, to eke out the year's subsistence on the roots and limited game of their country." [3]

Finally, our assumption that primitive marriage varied in duration from a single season to a life-long association, but was liable to be cut short by caprice, or the sickness or disability of one of the partners, is vindicated by the parallels presented by the anthropoids and many of the savage peoples to whom we have referred, and will be fully considered in a later chapter.

[1] Meyer, H. E. A., " Manners and Customs of the Aborigines of the Encounter Bay Tribe," in Woods, *Native Tribes of South Australia*, p. 191.

[2] Smyth, R. Brough, *The Aborigines of Victoria*, vol. i., p. 146.

[3] Wyeth, in Schoolcraft's *Indian Tribes of the United States*, vol. i., p. 207.

III

THE DEVELOPMENT OF POLYGAMY AND POLYANDRY

Our earliest human ancestors, as we have endeavoured to show, probably differed very little in their bodily structure and habits of life from the anthropoid apes. How long they continued to live an ape-like life is almost impossible to estimate, but it is quite certain that they eventually raised themselves from their erstwhile simian estate by virtue of their increasing intelligence. Thus, they gradually came to invent weapons and snares, to domesticate animals, and to acquire the rudiments of the art of agriculture. These, in turn, enabled them to practise gregariousness on a larger scale and laid the foundations of civilization. Incidentally, these changes led to very considerable modifications of primitive marriage, which we must now consider.

Professor Leuchart has pointed out that the periodicity in the sexual life of animals—owing to the fact that the reproductive matter is dependent upon a surplus of the individual economy—is governed by economic conditions, and that in consequence rut takes place when the proportion between receipts and expenditure is most favourable.[1] It is significant also that most of the higher animals rut but once a year, and sometimes even less frequently, and that the offspring are invariably born at that season when conditions are most favourable to their survival. Thus, the majority of birds and reptiles breed in the spring, but there is no one fixed season for all species, for, inasmuch as survival is governed by food supply, it follows that a maximal

[1] Leuchart, R., "Zeugung," in *Handwörterbuch der Physiologie*, vol. iv.

supply of nourishment will vary with climatic conditions and the nature of the food commodity. It is interesting to note, therefore, that the dormouse, which feeds principally upon hazel-nuts, pairs in July and gives birth to its young at the time when the nuts begin to ripen. Again, most of the mammals of tropical countries propagate at the commencement of the rainy season, that is at the time when water, vegetation, and prey are most abundant. Similarly, the anthropoid apes give birth to their young at that season when the fruits are most plentiful. It is true that one or two exceptions to this rule have been discovered, but it will be sufficient to say that, in most cases, satisfactory explanations of these exceptions to an otherwise universal rule have been advanced.

Since seasonal rut is the rule among the higher animals and man-like apes, it is inconceivable that our earliest human ancestors were exempt from its operation. This is certainly the opinion of Professor Westermarck, who writes : " Considering, then, that the periodicity of the sexual life rests on the kind of food on which the species lives . . . and considering further the close biological resemblance between man and the man-like apes, we are almost compelled to assume that the pairing time of our earliest human or half-human ancestors was restricted to a certain season of the year, as was also the case with their nearest relations among the lower animals." [1]

This assumption is rendered all the more probable by the facts that, even at the present time—or until comparatively recently—certain primitive peoples seem to experience a marked annual pairing time, and that even among some highly civilized races there is a noticeable periodic increase in the sexual instinct. A few examples will serve to illustrate this.

According to Mr. Johnston, the wild Indians of California " have their rutting seasons as regularly as have the deer." [2] Of the Watch-an-dies, a tribe inhabiting Western Australia, it is reported by Mr. Oldfield that they " have but one time for

[1] Westermarck, *loc. cit.*, p. 28.

[2] Johnston, in Schoolcraft, *loc. cit.*, vol. iv., p. 224.

copulation in the year," [1] while a marked seasonal increase in the sexual impulse, amounting almost to a primitive rutting period, has been observed among the Hos, an Indian hill tribe, by Colonel Dalton. This season, he reports, is marked by a great feast taking place in January, "when the granaries are full of grain, and the people, to use their own expression, full of devilment. They have a strange notion that at this period, men and women are so over-charged with vicious propensities, that it is absolutely necessary for the safety of the person to let off steam by allowing for a time full vent to the passions. The festival, therefore, becomes a saturnalia, during which servants forget their duty to their masters, children their reverence for parents, men their respect for women, and women all notions of modesty, delicacy, and gentleness." [2] Similar feasts are also reported to take place among the Punjas,[3] Kotars,[4] Keres,[5] Hottentots,[6] and certain other tribes.

It is significant also that several observers have recorded that the maximal number of births among some peoples occurs regularly at certain seasons of the year. Thus, writing of the Cis-Natalian Kaffirs, the Rev. H. T. Cousins remarks, "there are more children born in one month or season than in another, viz. August and September, which are the spring months in South Africa," [7] and he attributes this increase in births to feasts which are accompanied by unrestricted sexual intercourse between the unmarried people of both sexes. For ourselves, however, we are dubious if this seasonal orgy, and the similar saturnalias recorded of the Hos and other tribes, can be attri-

[1] Oldfield, A., "On the Aborigines of Australia," in *Trans. Ethn. Soc.*, n.s., vol. iii., p. 230.

[2] Dalton, *loc. cit.*, pp. 196 ff.

[3] Short, "Contributions to the Ethnology of Jeypore," in *Trans. Ethn. Soc.*, n.s., vol. iv., p. 269.

[4] *Idem*, "Account of the Hill Tribes of the Neilgherries," in *Trans. Ethn. Soc.*, n.s., vol. vii., p. 282.

[5] Bancroft, *Native Races of the Pacific States*, vol. i., p. 551.

[6] Fritsch, *Die Eingeborenen Sud-Afrikas*, p. 328.

[7] Quoted by Westermarck, *loc. cit.*, p. 30.

buted solely to the survival of a primitive rutting season. That the season of the year coincides with what was the period of rut among our earliest human ancestors in such a climate and locality is highly probable, but the deliberate continuance of such a seasonal orgy, among peoples who are otherwise emancipated from the limitations of seasonal rut, seems to us to be much more probably due to a strong belief in the virtues of homœopathic magic. Thus it will be noted that many of these feasts occur in the spring, when the young crops are growing, and Sir James Frazer has pointed out that numerous races believe that fertility in human beings will homœopathically produce fertility in the growing crops.[1] To this end temporary licentiousness is deliberately encouraged, acts of copula are performed among the growing grain, and pregnant women are required to assist in sowing the seed or attending to the growing plants. The fact that the Hos saturnalia takes place after the harvest has been gathered in does not invalidate this explanation, for a certain amount of this grain is set aside to be used as seed for the ensuing year's crop, and it is essential that this seed should be rendered highly fertile—preferably by association with human fertility—through the agency of sympathetic or imitative magic. Despite this possible explanation of the occurrence of definitely planned sexual orgies, however, it is highly probable that the seasons at which such orgies are held actually do coincide with a definite increase—due to racial mneme—of the sexual impulse, and it should be added that Westermarck quotes some interesting statistics showing that, even in Europe, there are regular periodic fluctuations of the birth-rate.[2]

Granting, then, that primitive man was once limited to a periodic rutting season, and that this was due to the precarious nature of his food-supply, it will be apparent that his present perennial sex life is a concomitant of his emancipation from sole dependence upon vegetation, wild fruit, and game. As long as

[1] Frazer, Sir J., *The Golden Bough*, vol. i., ch. 3.

[2] Westermarck, *loc. cit.*, pp. 31 ff.

he depended solely upon nature, he feasted when fruit and game were plentiful, and was reduced to semi-starvation when they were scarce, but the moment he learned to preserve his food, say, by turning his meat into pemmican or biltong, his emancipation was begun, while it was increased a thousandfold when he learned the rudiments of agriculture and the art of domesticating animals.

That this is no mere hypothesis is clearly proved by the fact that a similar physiological development has taken place in several of the animals domesticated by man, and as the direct consequence of the achievement of a regular food-supply irrespective of the season of the year. Thus, the domestic goat and ass in southern countries now rut throughout the year; the domestic pig twice a year, and many domestic birds, including the canary, are no longer limited to a single pairing season. Contrary to popular opinion, therefore, civilization has increased rather than decreased the insistency of the sexual impulse, for, as Westermarck reminds us, "the more man has abandoned natural life out of doors, the more luxury has increased and his habits have got refined, the greater is the variability to which his sexual life has become subject, and the smaller has been the influence exerted upon it by the changes of the seasons." [1] Thus, although both primitive man and the higher animals were originally subjected to practically identical sexual limitations, we must agree with Beaumarchais that now, "That which distinguishes man from the beast is drinking without being thirsty, and making love at all seasons."

The transition of primitive man from a more or less solitary and nomadic to a comparatively settled and gregarious mode of life was, without doubt, primarily responsible for the general rise and spread of polygamy, and this, if we pause to reflect, is readily understandable. It is possible, of course, that among our earliest human ancestors a certain amount of promiscuity, such as is sometimes observed among the animals, may have occasionally taken place at the annual season of rut, and also that

[1] Westermarck, *loc. cit.*, p. 38.

in certain favourable areas a human male may have been enabled to indulge in several mates, but this, we feel, must have been the exception rather than the rule. In brief, during the earliest phase of human history, relationships must necessarily have been restricted to small compact units suitable to hunting and foraging in regions where, taking the year as a whole, supplies were none too plentiful, and this, combined with the comparative numerical equality of the sexes in a state of nature, and the absence of any marked sexual impulse during the long intervals between rutting seasons, must have rendered the monogamous form of marriage the most satisfactory and widely practised.

Thanks to man's mental superiority over the animals, however, the semi-solitary phase in human history gradually passed into the tribal phase. How this transition actually took place may best be illustrated by a concrete case of the origin of social organization among a particular people, who, until comparatively recently, existed under very primitive conditions. We have already quoted from an account of the Snake Indians in the previous chapter, and Mr. Wyeth, continuing his account, informs us that: " After a portion of them (*i.e.* the Snakes), who are now called the Bonaks, had obtained horses, they would naturally form bands and resort to the Buffalo region to gain their subsistence, retiring to the most fertile places in their own, to avoid the snows of the mountains and feed their horses. Having food from the proceeds of the Buffalo hunt, to enable them to live together, they would annually do so, for the protection of their horses, lodges, etc., etc. These interests have caused an organization among the Bonaks, which continues the year through, because the interests which produce it continue: and it is more advanced than that of the other Snakes." [1]

It is apparent, from Mr. Wyeth's account, that tribal organization among the Bonaks was rendered possible (*a*) by the domestication of the horse, (*b*) by the acquirement of the art of horsemanship, and (*c*) by the discovery of a method of preserving buffalo-meat; just as such social organization as existed among

[1] Wyeth, in Schoolcraft, *loc. cit.*, vol. i., pp. 207 ff.

the remainder of the Snakes was determined by the presence, during certain seasons, of a plentiful supply of salmon in the neighbouring rivers. Arguing from this concrete example, we may legitimately assume that primitive man, by virtue of his growing intelligence, gradually learned how to conserve the natural resources of his particular environment, and that the part played by the presence of the buffalo and horse in the Snake region was paralleled by that played by fish, wild cereals, fruits, vegetables, edible roots, wild cattle, sheep, goats and camels in other parts of the world. The advent of agriculture, the domestication of animals, improved methods of hunting and fishing, and the discovery of how to preserve raw flesh, not only rendered gregariousness possible but also necessary, since the success of practically all these operations depended upon the active co-operation of a fairly large number of individuals. Such gregariousness, moreover, had necessarily to last throughout the year, since these new and laboriously acquired assets were always liable to the predatory attacks of less civilized human neighbours and of wild animals. The advantage of tribal life, when once the initial difficulty of securing an adequate food-supply had been overcome, has also been pointed out by Westermarck. "Living together," he writes, "the families could resist the dangers of life and defend themselves from their enemies much more easily than when solitary,—all the more so, as the physical strength of man, and especially savage man, is comparatively slight. Indeed, his bodily inferiority, together with his defencelessness and helplessness, has probably been the chief lever of civilization." [1] Last, and by no means least, since no living creature is devoid of some small measure of self-determination and is not exclusively moulded by the relentless forces of heredity and environment, the gregarious instinct in man stimulated him to find a fuller scope for his social inclinations than circumstances had hitherto rendered possible.

It was only natural that the great changes brought about in man's condition and mode of life by the advent of the tribal

[1] Westermarck, *loc. cit.*, p. 49.

phase should materially affect primitive human marriage. Man was now in the possession of an adequate food-supply throughout the year; he was emancipated from the limitations of primitive rut; he lived in fairly large communities, and the proportion of the sexes—thanks to the fact that the men, as hunters, warriors, etc., were exposed to greater risks than the women—was materially altered. Urged by a perennial passion, which was further stimulated by gregariousness and the presence of more women than men, primitive monogamy no longer sufficed to satisfy man's sexual needs, hence the possession of two or more wives now became distinctly advantageous. Thus, quite apart from the fact that gregariousness stimulated man's sexual desires and whetted his appetite for change, the absence and undesirability—since children now came to constitute the wealth of the family—of birth control and the fact that much of a woman's life was devoted to child bearing rendered polygamy almost a necessity. As long as man's sexual impulses had been subjected to the limitations of periodic rut, the pregnancy of his mate had not occasioned him any hardship, but as soon as this limitation was removed it became inevitable that he should either exercise very considerable self-control or seek sexual satisfaction elsewhere.

These alternatives were necessitated by the fact that a man, in practically every primitive society, was impelled to refrain from cohabiting with his wife during her pregnancy and during certain other periods. Racial memory of a time when, owing to the limitation of seasonal rut, the female had from necessity remained inviolate during the major part of the year, no doubt contributed to primitive man's disinclination to cohabit with his wife during the period of her pregnancy, as also perhaps did the fact that a pregnant woman, thanks to her physical condition, is less sexually stimulating than a non-pregnant woman, but the primary reason for the secession of cohabitation during such a period was to be found in man's newly acquired fears and beliefs. In order to understand these, however, we must pause to consider the origin and nature of primitive magic.

To say that no thought is possible without the assistance of language is, no doubt, an exaggeration, for we have all experienced thoughts and fancies "that break through language and escape," but it is empirically true that ideas are not communicable, except to a very limited extent, in its absence. The rudiments of language, of course, are by no means absent among the higher animals and man-like apes; but the art of vocal expression is so limited that it suffices to communicate only the most rudimentary ideas. Perhaps one of the greatest triumphs of primitive man's developing intelligence was the extension of the scope of his sub-human ancestors' rudimentary language to express a mass of concrete objects and abstract ideas, and there can be no doubt that this played a very great part in building up primitive society. Furthermore, as man was by no means exclusively occupied with practical affairs; found much to whet his curiosity, and had ample time for reflection, he soon began to speculate about the nature and causes of such things as life and death, birth and growth, flood and storm, famine and pestilence, and so on, and such speculation—the parent of both modern science and religion—now being communicable was at first largely embodied in the theory and practice of primitive magic.

"If we analyse the principles of thought on which magic is based," writes Sir James Frazer, "they will probably be found to resolve themselves into two: first, that like produces like, or that an effect resembles its cause: and second, that things which have once been in contact with each other continue to act on each other at a distance after the physical contact has been severed. The former principle may be called the Law of Similarity, the latter the Law of Contact or Contagion. . . . Charms based on the Law of Similarity may be called Homœopathic or Imitative Magic. Charms based on the Law of Contact or Contagion may be called Contagious Magic."[1] As an example of the working of the first law, primitive man believed that by imitating rainfall, say, by sprinkling water on

[1] Frazer, *The Golden Bough*, vol. i., p. 52.

the ground, he could induce rain, or that by injuring a drawing or a model of an enemy he could actually inflict physical injury upon his foe. Similarly, and in accordance with the second law, he believed that by destroying some of the clothing, or hair-cuttings or nail-parings of a person, he would automatically bring about the destruction of him with whom they had once been in contact; while hunters believed that by stabbing or pricking the spoor or footprints of an animal they would actually lame their quarry and thus be able the more easily to overtake it.

To the modern mind, no doubt, the tenets of primitive magic seem ludicrous and fantastic in the extreme, but as Frazer reminds us, "its fundamental conception is identical with that of modern science; underlying the whole system is a faith, implicit but real and firm, in the order and uniformity of nature. The magician . . . supplicates no higher power; he sues the favour of no fickle and wayward being: he abases himself before no awful deity. Yet his power, great as he believes it to be, is by no means arbitrary and unlimited. He can wield it only so long as he strictly conforms to the rules of his art, or to what may be called the laws of nature as conceived by him. . . . The fatal flaw of magic lies not in its general assumption of a sequence of events determined by law, but in its total misconception of the nature of the particular laws which govern that sequence." [1]

Religion, like magic, considerably modified human marriage, both in its earlier and later phases. The primary difference between the two beliefs is that, whereas magic regards those extraneous forces which effect human life as mostly impersonal and subject to unalterable law, religion assumes these forces to be personal and subject to the caprice of gods or demons. Curiously enough though, the two conceptions, which now appear to be so diametrically opposed in principle, were originally practised side by side. Thus Frazer informs us that "at an earlier stage the functions of priest and sorcerer were often combined or, to speak more correctly, were not yet differentiated

[1] *Ibid.* vol. i., pp. 220-21.

from each other. To serve his purpose man . . . performed religious and magical rites simultaneously; he uttered prayers and incantations almost in the same breath, knowing or recking little of the theoretical inconsistency of his behaviour, so long as by hook or crook he contrived to get what he wanted." [1] As an example of this, many of the African Bantus at the present time will refer to an abdominal pain as an *inyorka pugatee*, meaning that they have a snake or devil inside them, but the devil in question may be regarded either as the effect of an impersonal force or as the activity of a supernatural entity, and may thus be counteracted by a magical spell or exorcised by a religious rite.

Among primitive people the phenomena of birth and disease always partook of the mysterious and supernatural, and our ancestors—partly perhaps because pregnancy and childbirth sometimes cost a woman her life, and nearly always involved a certain amount of weakness and suffering—sought to protect themselves from the operation of such contagious forces by a system of isolation or taboo. Even among comparatively highly civilized societies, women during menstruation and pregnancy have been considered unclean, and among practically all primitive peoples they are rigorously tabooed. "Thus in primitive society," writes Frazer, "the rules of ceremonial purity observed by divine kings, chiefs, and priests agree in many respects with the rules observed by homicides, mourners, women in childbed, girls in puberty, hunters and fishermen, and so on. To us these various classes of persons appear to differ totally in character and condition: some of them we should call holy, others we might pronounce unclean or polluted. But the savage makes no such moral distinction between them; the conceptions of holiness and pollution are not yet differentiated in his mind. To him the common feature of all these persons is that they are dangerous and in danger, and the danger in which they stand and to which they expose others is what we should call spiritual or ghostly. . . . To seclude these persons

[1] Frazer, *loc. cit.*, vol. i., pp. 226-227.

from the rest of the world so that the dreaded spiritual danger shall neither reach them, nor spread from them, is the object of the taboos which they have to observe. These taboos act, so to say, as electrical insulators to preserve the spiritual force with which these persons are charged from suffering or inflicting harm by contact with the outer world." [1]

There is abundant evidence to show that, among the vast majority of surviving primitive peoples, pregnant and menstruous women are almost universally tabooed, and that a somewhat less rigid taboo, which while not actually demanding her isolation prohibits her from cohabiting with her husband, is often placed upon a woman as long as she is nursing her child. For the reasons already indicated, a pregnant woman, particularly at the actual time of parturition when the supernatural forces with which she is charged are actually being released, is regarded among primitive people with mystical awe, and the prudence which refrained them from touching such a person has much in common with that which impels us to avoid contact with the live rail on the Underground. One of the reasons why the actual time of childbirth and of menstruation is considered so dangerous is because blood is regarded as the life force, it being held that the soul or spirit is in the blood,[2] and as it is believed that, because of her fertility, a woman is even more highly charged with this mystical life force than a man, the slightest contagion with feminine blood is regarded with the utmost horror. Thus among the Arunta, it is believed that a draught of a woman's blood would kill even the strongest man.[3] Moreover, the danger from contagion with this powerful life force in general is, in the case of women, augmented by the fact that her blood is especially conditioned by those qualities of weakness which are to be found in women and children, and because during childbirth and menstruation women suffer from

[1] Frazer, *loc. cit.*, part ii., " Taboo," p. 224.

[2] Frazer, *loc. cit.*, part ii., p. 240.

[3] Gillen, F. J., *Report of the Horn Scientific Expedition to Central Australia*, part iv., p. 182.

actual physical sickness, hence no man, much less a warrior or a hunter, will risk being infected with these dreaded disabilities. It is possible also that, to a lesser extent, milk is regarded in much the same light as blood, for there are obvious analogies. In any case it would be associated with the nurture of infants, and as the wife also would be assumed to be tainted with the weakness of her child, it is possible that the husband refrains from cohabiting with his wife lest he too should be tainted with weakness and helplessness.

A few examples of the taboos inflicted upon menstruous, pregnant, and nursing women will serve to illustrate how widely spread the customs are and their consequences to conjugal relationships. "An Australian blackfellow," writes Frazer, "who discovered that his wife had lain on his blanket at her menstrual period, killed her and died of terror himself within a fortnight. Hence Australian women at these times are forbidden under pain of death to touch anything that men use, or even to walk on a path that any man frequents. They are also secluded at childbirth, and all vessels used by them during their seclusion are burned."[1] According to Mr. Morice, "Among the Dene and most other American tribes, hardly any other being was the object of so much dread as a menstruating woman. As soon as signs of that condition made themselves apparent in a young girl she was carefully segregated from all but female company, and had to live by herself in a small hut away from the gaze of the villagers or of the male members of the roving band. While in that awful state she must abstain from touching anything belonging to man. . . . Moreover, as the very sight of her was dangerous to society, a special skin bonnet, with fringes falling over her face down to her breast, hid her from the public gaze, even some time after she recovered her normal state."[2]

In Manahiki, an island of the Southern Pacific, a woman is

[1] Frazer, *loc. cit.*, part ii., p. 145.

[2] Morice, A. G., "The Canadian Denes," in *Annual Anthro. Report* (Toronto), 1905, p. 218.

not allowed to handle food and has to be fed by another person for ten days after giving birth to a child.[1] Among the Sinaugolo tribe of British New Guinea, a woman may not prepare or handle food for about a month after her confinement, and must even use a sharpened stick to convey the food (prepared by her friends) to her mouth in order to avoid touching it with her hands.[2] "The Bribri Indians," writes Frazer, "regard the pollution of childbed as much more dangerous even than that of menstruation. When a woman feels her time approaching, she informs her husband, who makes haste to build a hut for her in a lonely spot. There she must live alone, holding no converse with anybody save her mother or another woman. After her delivery the medicine-man purifies her by breathing on her and laying an animal, it matters not what, upon her. But even this ceremony only mitigates her uncleanness into a state considered to be equivalent to that of a menstruous woman; and for a full lunar month she must live apart from her housemates, observing the same rules with regard to eating and drinking as at her monthly periods." [3] Similarly, he tells us that, "Among the Adivi or forest Gollas of Southern India, when a woman feels the first pains of labour, she is turned clean out of the village and must take up her quarters in a little hut made of leaves or mats about two hundred yards away. In this hut she must bring forth her offspring unaided, unless a midwife can be fetched in time to be with her before the child is born; if the midwife arrives after the birth has taken place she may not go near the woman. For ninety days the mother lives in the hut by herself. If any one touches her, he or she becomes, like the mother herself, an outcast and is expelled from the village for three months. . . . On the ninetieth day of her seclusion the woman is called out from her hut, washed, clad in clean clothes, and after being taken to the village temple is conducted to her

[1] Turner, G., *Samoa*, p. 276.

[2] Seligmann, C. G., "The Medicine, Surgery, and Midwifery of the Sinaugolo," in *Journ. Anthro. Inst.*, xxxii., p. 302.

[3] Frazer, *loc. cit.*, part ii., p. 149.

own house by a man of the caste, who performs purificatory ceremonies." [1]

Again, among the Ashantees, we are informed by Mr. Reade that, " when conception becomes apparent, the girl goes through a ceremony of abuse, and is pelted down to the sea where she is cleansed. She is then set aside; charms are bound on her wrists, spells are muttered over her, and . . . her husband is not allowed to cohabit with her from that time until she has finished nursing her child." [2] In Sierra Leone, it was looked upon as a most heinous crime for a woman to cohabit with her husband before her child could run alone.[3] Among the Makonde of East Africa, Mr. Thomson informs us that " when a woman bears a child, she lives completely apart from her husband till the child is able to speak, as otherwise it is believed that harm, if not death, would come to the infant," [4] while Seemann reports of the natives of Fiji that " the relatives of a woman would take it as a public insult if any child should be born before the customary three or four years have elapsed." [5]

Treating of the taboo placed upon the cohabitation of a man with his wife among primitive people generally, Westermarck writes: " This prohibition is all the more severe, as the suckling-time generally lasts for two, three, four years, or even more. . . . This long suckling-time is due chiefly to want of soft food and animal milk. But when milk can be obtained, and even when the people have domesticated animals able to supply them with it, this kind of food is often avoided." [6] This is especially true of many of the Bantu tribes of Africa, and the author frequently noted that animal milk was rarely, if ever, given to infants, although practically every kraal is well supplied with milch

[1] Frazer, *loc. cit.*, pt. ii., pp. 149-150.

[2] Reade, W. Winwood, *Savage Africa*, p. 45.

[3] Moore, T., *Marriage Customs, Modes of Courtship, and Singular Propensities of the Various Nations of the Universe*, p. 223.

[4] Thomson, J., " Notes on the Basin of the Rovuma River," in *Proceed. Roy. Geo. Soc.*, n.s., vol. iv., p. 75.

[5] Seemann, B., *Viti*, p. 191.

[6] Westermarck, *loc. cit.*, pp. 483-4.

cattle. The reason why infants are not given animal milk, even when obtainable, is probably similar to the reason why a man is prohibited from cohabiting with his wife during the period of her lactation. In the latter case it is assumed that the woman, being surcharged with life force or a form of nutriment specifically intended for her offspring, may infect her husband with the weakness of infancy. In much the same way it is probably assumed that if an infant were given some of the animal milk which normally forms a part of the diet of adults it might, by contagion—the milk still being considered to be magically associated with the animal providing it—infect the animal with the weakness of infancy and lead to its death, and, even worse, pass on the contagion to adults through the milk which they drank. The probability of this assumption is indicated by the fact that, among some of the South African Bantus, a wounded man may not drink milk until after he has been purified [1]—presumably because the weakness occasioned by the wound might affect the cattle.

The ban placed upon sexual intercourse in all these cases naturally affected the man more than his wife. Copula involves expenditure of a considerable amount of bionic energy, and in women this energy during the periods of menstruation, gestation and lactation is diverted into specialized physiological processes with the result that the woman's sexual desires are very largely sublimated. No such sublimation, however, takes place in man: his sexual desires remain as acute as ever, and unless he indulges in promiscuity—which would outrage the proprietary rights of other men—he must either practise rigorous self-control or resort to polygamy. But self-control for a period of three or four years, as necessitated by the pregnancy and lactation of his wife, is naturally regarded as intolerable, and as pregnancy very frequently recurs as soon as cohabitation is permissible it would literally mean that a man would have to live the life of a bachelor for about ninety per cent. of his married life if strict monogamy were observed. Further than this,

[1] Kidd, Dudley, *The Essential Kaffir*, pp. 309 ff.

constant child-bearing and hard work age women very rapidly in tropical countries, and, in the absence of any strong affection, there is a distinct limit to the period during which a woman is regarded as sexually desirable by her husband. Thus the author has observed that the majority of native women in tropical countries appear to be veritable old hags at about thirty, and there can be but scant doubt that the unattractiveness of women among primitive communities at a comparatively early age, and man's admitted love of variety, impels him to polygamy. Finally, as it must be assumed that most of the beliefs and customs obtaining among surviving savages obtained also among our primitive ancestors in the early tribal stage, it is quite understandable why, from the viewpoint of man's sexual appetite alone, polygamy came gradually to supersede the earlier monogamic form of marriage.

Although polygamy is not a matrimonial stage through which the whole of mankind has passed, it is, nevertheless, recognized as a stage passed through in the history of the vast majority of peoples, and that considerations other than man's sexual needs have contributed to its widespread practice. Thus in agricultural communities, where the women till the land and do the bulk of the hard work, the greater the number of wives a man possesses the greater is his wealth and social prestige. Again, among nearly all primitive peoples children are a form of insurance against the poverty of old age, and commenting on this Westermarck writes, "They are easily supported when young, and in times of want they may be left to die or be sold. When a few years old, the sons become able to hunt, fish, and paddle, and later on they are their father's companions in war. The daughters help their mother to provide food, and, when grown up, they are lucrative objects of trade. Finally, when old, the parents would often suffer want had they not their children to support them. Hence, in a savage condition of life, children are the chief wealth of the family." [1]

Broadly speaking, boys are the most prized among warlike,

[1] Westermarck, *loc. cit.*, p. 226.

hunting, and nomadic peoples, while girls, thanks to the fact that they bring their parents a considerable purchase price when marriageable, are especially valued among settled argricultural peoples. We shall have occasion to refer to the purchase of wives in a later chapter, and, in passing, it will serve to illustrate the value of a daughter if we state that, among the African Bantus, a girl will fetch anything from three to ten head of cattle for her hand in marriage, and that a Mashona *induna* once informed the author that, "To possess many wives and daughters is to have everything that a man can desire." With regard to the support of parents, it is incumbent upon children, especially in India and Chiña, that they shall commence contributing to the family expenses as soon as they are old enough to do so. Indeed, so strong is the family organization that all aged or necessitous relatives have a claim for support upon the family or clan. Similarly, among the poorer classes of Europe, it is still considered to be the duty of children to contribute to the family exchequer as soon as possible, and to support their parents in their old age.

Religion is yet another potent factor which has led to a desire for children, and more especially sons, among many races. This religious motive was particularly strong among the Aryan and Semitic races in the past, and is still predominant among many peoples of the Mongolian race. An explanation of Chinese beliefs will serve to illustrate this.

John Chinaman considers himself to be the possessor of no less than seven animal spirits and three souls. Fortunately for his family the seven animal spirits are dissipated at death and one of his souls goes straight to the spirit world, but the remaining two occasion his relations no little trouble and anxiety. One of these takes up its abode in the grave with the corpse, and the other migrates to the ancestral tablet. This last object is a sort of wooden frame or book upon which is inscribed the names, titles, and dates of the birth and death of the deceased. The tablet is hung up in the ancestral hall of the family or clan, and it is considered essential to the well-being of the departed souls that gifts and worship shall be offered before both the tablet and

the grave. According to the Chinese, neglect of ancestor worship results in the family suffering all manner of misery, poverty, pestilence, and misfortune, while scrupulous attendance to ancestral rites is rewarded by wealth, happiness, success, and fertility. Only a son can perform these rites, hence a son—and preferably many sons—is considered indispensable in every family, and the failure of a wife to give birth to a son after a reasonable period of time is held to justify a divorce or the taking of a second wife or concubine. Moreover, as the performance of ancestral rites is also essential to the posthumous spiritual well-being of the wife, a sonless woman will frequently urge her husband to take a concubine—a wife being not only the mother of her own children but also the putative mother of the children of her husband's concubines.

One further factor which attached a high value to the possession of a large number of children, and hence to a large number of wives, remains to be considered. This may be termed the social advantage. "Man in a barbarous state," writes Westermarck, "is proud of a large progeny, and he who has most kinsfolk is most honoured and feared." [1] Thus Heriot, writing of the factors governing the election of a chief among certain of the North American Indians, informs us that "the choice usually fell upon him who had the most numerous offspring, and who was therefore considered as the person most deeply interested in the welfare of the tribe." [2] Incidentally, we have also noted that this practice is closely followed among certain of the African tribes with whom we have come into contact.

We have now reviewed at considerable length some of the most important factors in the early development of human marriage, and have shown how primitive monogamy was gradually replaced by the almost universal practice of polygamy. But the development of marriage took other forms besides that of polygamy, and before concluding this chapter we must

[1] Westermarck, *loc. cit.*, p. 489.

[2] Heriot, G., *Travels through the Canadas*, p. 551.

briefly consider that curious and somewhat rare offshoot of the evolution of human marriage known as polyandry.

Polyandry is that form of marriage in which a woman is permitted to have several husbands. It has arisen only under certain comparatively rare conditions, and has never in any way affected the main stream of marital evolution. Broadly speaking, it may be said to exist only in regions where nature is particularly hostile; where life is arduous; food extremely scarce, and where, in consequence, the men invariably outnumber the women. Such inhospitable regions are scattered all over the world, and polyandry occurs among several Eskimo tribes;[1] the Saporogian Cossacks; [2] the Gilyaks of Eastern Siberia; [3] "all over the country of the Tibetan-speaking people; that is to say, from China to the dependencies of Kashmir and Afghanistan, with the exception of Sikkim, and some other of the provinces on the Indian side of the Himalaya"; [4] among the innumerable tribes inhabiting the poorer mountainous regions of India, such as the Todas,[5] Nairs,[6] Kurgs,[7] Miris, Doplas, Butias [8] and Santals; [9] among the Hottentots,[10] Damaras,[11] and some of the mountain tribes of the Bantu race;[12] among the Hovas of Madagascar,[13] and, up to the year 1860, when it was prohibited by the British, among the Sinhalese of the interior of Ceylon.[14] Practically all these peoples live in adverse conditions. Thus Baber reports of

[1] Seemann, B., *Voyage of the "Herald,"* vol. ii., p. 66.

[2] McLennan, *Studies*, p. 98.

[3] Lansdell, H., *Through Siberia*, vol. ii., p. 225.

[4] Wilson, A., *The Abode of Snow*, p. 226.

[5] Shortt, J., in *Trans. Ethn. Soc.*, n.s., vol. vii., pp. 264 ff.

[6] *Asiatick Researches*, vol. v., p. 13.

[7] Balfour, E., *The Cyclopaedia of India*, vol. iii., p. 250.

[8] Dalton, *loc. cit.*, pp. 33, 36, 98.

[9] Mann, E. G., *Sonthalia*, p. 100.

[10] Thunberg, in Pinkerton, *Collection of Voyages and Travels*, vol. xvi., p. 141.

[11] Fritsch, G., *Die Eingeborenen Sud-Afrikas*, p. 227.

[12] Theal, G. McCall, *History of the Emigrant Boers*, p. 19.

[13] Sibree, *loc. cit.*, p. 253.

[14] Davy, J., *Account of the Int. of Ceylon*, p. 286.

the Tibetans that "polygamy obtains in the valleys, while polyandry prevails in the uplands,"[1] and Captain J. D. Cunningham writes that "Polyandry appears to be essential in a country in which the quantity of cultivatable land is limited, and in which pastures are not extensive, in which there are but few facilities for carrying on commerce, and in which there is no mineral wealth readily made available."[2] Similarly, Sir A. Cunningham, writing of the Botis of Ladakh, asserts that polyandry "was a politic measure for a poor country, which does not produce sufficient food for its inhabitants,"[3] while Mr. Bellew points out that the advantage of polyandry in the Ladakh region is due to the fact that "the population is kept down to a proportion which the country is capable of supporting."[4] Further evidence of the fact that polyandry is primarily determined by utilitarian motives is furnished by Captain J. D. Cunningham, who reports that "even among the Lamaic Tibetans any casual influx of wealth, from trade or other sources, immediately leads to the formation of separate establishments by the several members of a house."[5]

In most polyandrous communities a woman's husbands are usually brothers or blood relations, and it would seem that the sharing of a wife is an act of benevolence on the part of the elder brother to the younger ones, who, owing to the shortage of women, would otherwise have to go wifeless. It may also be a concession to communal peace, for it is highly probable that if the women were not shared there would be constant quarrelling, and possibly even bloodshed, between the few who possessed wives and the many who possessed none. In practice, however, polyandry inflicts comparatively little hardship upon the husbands since, owing to the nature of the country in which the custom mostly obtains, the majority of the men are absent from

[1] Baber, E. C., in *Proceed. Roy. Geo. Soc.*, S.P. vol. i.

[2] Cunningham, J. D., in *Journ. As. Soc. Bengal*, vol. xiii., pt. 1, p. 202.

[3] Cunningham, Sir A., *Ladak*, p. 306.

[4] Bellew, H. W., *Kashmir and Kashghar*, p. 118.

[5] Cunningham, J. D., *History of the Sikhs*, p. 18.

home—grazing their cattle or in pursuit of game—for very long periods. In these circumstances, it is the practice for one of the husbands to remain at home with the wife. In the ensuing trip, one of the husbands who was engaged in the last expedition will take the place of him who remained at home, and thus each husband shares the wife in turn.[1]

[1] Westermarck, *loc. cit.*, pp. 116-7.

IV

SEXUAL SELECTION IN MAN

Before tracing the final transition from polygamy to modern monogamy, it will be necessary to examine briefly those factors which influence primitive peoples in the choice of their mates, and to see how far such factors have been modified or developed by the growth of civilization.

Interesting and pertinent as the subject is, space precludes us from more than indicating the theory of sexual selection among the non-human species. Broadly speaking it concerns itself with those differences in size, colour and skeleton which distinguish the sexes apart from the primary difference in the reproductive organs. Conspicuous among these secondary sexual characteristics, as they are called, may be mentioned the mane of the lion, the antlers of stags, the dewlaps of oxen, and the magnificent plumage of many male birds in contradistinction to the sober colouring of the hens. The universality of these secondary characteristics led Darwin to believe that they played an important function in the general scheme of life, and resulted in his formulation of the theory of sexual selection. "Sexual selection," he wrote, "depends on the advantage which certain individuals have over others of the same sex and species solely in respect of reproduction." [1]

Numerous species are equipped with various means of attracting the female, for in nature it is the male that is invariably the wooer. Thus certain fishes have sound-producing instruments which are used at spawning time, and the normally bright colours of others become more conspicuous and intense

[1] Darwin, *Descent of Man*, p. 322.

when mating. Characteristic odours are emitted by crocodiles, lizards, snakes, and certain mammals during the breeding season. Stridulous insects, croaking frogs, and numerous mammals become either exclusively or more markedly vociferous during the rutting period ; while the love songs and curious antics indulged in by many male birds in order to excite the females during the pairing season are too familiar to require description.

With the conflicting theories regarding the origin of these secondary characteristics we are not concerned. In a different category, however, are the established facts that the males vie with each other in flaunting their means of attraction, and that the females evince discrimination and choice. It should be pointed out in this connection that the choice of the female is not governed by any true appreciation of æsthetic beauty. In any given species the healthiest and most vigorous males naturally develop the most elaborate secondary characteristics. The criterion of beauty, then, is not actual beauty, but typical beauty (*i.e.* typical characteristics), and in this respect the raucous scream of the macaw is as potent as the dulcet notes of the nightingale. We shall see that this same truth applies to man.

With primitive man, as with the lower animals, it is the male who is the more eager and active in courtship. " Let a man be ever so good-looking," says a Maori proverb, " he will not be much sought after ; but let a woman be ever so plain, men will eagerly seek after her."[1] For reasons which will later be made plain, conditions have been somewhat reversed in modern society, but even now, as M. de Quatrefages points out, in most cases, " and especially in transient amours, woman refuses to lower herself; man is less delicate." [2]

We have already noticed the criterion of typical beauty among the lower species; this also holds good with man. Thus von Humboldt informs us that " Nations attach the idea of beauty to everything which characterizes their own physical

[1] Taylor, R., *New Zealand and its Inhabitants*, p. 239.

[2] Quatrefages, A. de, *The Human Species*, p. 267.

conformation, their natural physiognomy. Thence it results that, if nature have bestowed very little beard, a narrow forehead, or a reddish-brown skin, every individual thinks himself beautiful in proportion as his body is destitute of hair, his head flattened, his skin more coloured with annotto or chica, or some other coppery-red colour." [1] Similarly, Darwin reminds us that " It is certainly not true that there is in the mind of man any universal standard of beauty with respect to the human body. It is, however, possible that certain tastes may in the course of time become inherited . . . and if so, each race would possess its own innate ideal standard of beauty. . . . The men of each race prefer what they are accustomed to; they cannot endure any great change; but they like variety, and admire each characteristic carried to a moderate extreme. Men accustomed to a nearly oval face, to straight and regular features, and to bright colours, admire, as we Europeans know, these points when strongly developed. On the other hand, however, men accustomed to a broad face with high cheek-bones, a depressed nose, and a black skin, admire these peculiarities when strongly marked. . . . As the great anatomist Bichat long ago said, if everyone were cast in the same mould, there would be no such thing as beauty. If all our women were to become as beautiful as the Venus de Medici, we should for a time be charmed; but we should soon wish for variety; and as soon as we had obtained variety, we should wish to see certain characters a little exaggerated beyond the existing common standard." [2]

Conspicuous among the physical characteristics of the different races commented upon by Darwin are variations in the colouring of the skin. Thus, the North American Indians admire a coppery-red hue and accentuate their natural colouring by the use of artificial pigments; many of the Chinese and Japanese make use of a yellow cosmetic, while the dark-skinned natives of the Malabar coast smear themselves with oil of

[1] Humboldt, A. von, *Personal Narrative of Travels to the Equinoctial Regions of the New Continent* (trans.), vol. iii., pp. 236 ff.

[2] Darwin, *Descent of Man*, pp. 890-891.

sesame until, to quote Marco Polo, they become as "black as devils." [1]

Other physiological racial characteristics include variations in bone formation, and Spencer has pointed out that savage men are distinguished from civilized man by their large jaws and by the prominent out-jutting cheek-bones which invariably accompany such jaws. He further adds that this is also responsible for such peculiarities as the depression of the bridge of the nose, wide-spreading nostrils, a large mouth, and protuberant lips.[2] That these characteristics, which are repugnant to Europeans, are appreciated and admired by the peoples possessing them is clearly shown by the fact that they are frequently accentuated by artificial means. Thus, the South Sea Islanders often press the noses and flatten the occipital bones of their infants,[3] while many of the North American Indians artificially flatten their foreheads.[4]

Although Darwin was right when he maintained that there is no "universal standard of beauty," we are convinced that Westermarck is also right in maintaining that there does exist "an ideal of beauty which, no doubt, may be said to be common to the whole human race." [5] The ideal is indubitably subject to numerous modifications governed by racial peculiarities, but in so far as the male and female of the human species possess certain marked secondary sexual characteristics which are more predominant even than racial differences, and as, furthermore, there is a general preference shown by men and women the whole world over for those who conform most typically to these secondary characteristics, Westermarck's dictum may be said to be justified.

[1] Marco Polo, *Concerning the Kingdoms and Marvels of the East*, vol. ii., p. 291.

[2] Spencer, *Essays*, vol. ii., pp. 153 ff.

[3] Ellis, W., *Polynesian Researches*, vol. i., p. 81.

[4] Heriot, G., *Travels through the Canadas*, p. 438; Macfie, M., *Vancouver and British Columbia*, p. 441.

[5] Westermarck, *loc. cit.*, p. 260.

An indication of some of these general characteristics will, perhaps, best illustrate our point. The human male, practically everywhere, is inclined to be larger, taller, and more powerful than the female. A man's body is usually well supplied with large muscles, a woman's with fatty tissue. His greatest breadth, furthermore, is usually at the shoulders, a woman's at her hips. Again, the halving line of a woman's body is usually lower than a man's, hence, by comparison with the long strides of a man, a woman is compelled to take short and almost mincing steps. It is significant to note, therefore, that practically every race admires a muscular form in a man and a rounded form in a woman. Even the racial variations in physical preferences, moreover, show a basic identity. Thus a full rounded breast in a woman which was—at least until recently—admired all over Europe, is almost universally regarded as essential to feminine beauty, though the European ideal of a beautiful bust differs very materially from that of the African tribes, since the huge pendent breasts of the women which they admire so much would be regarded as monstrous by Europeans. Again, a full rounded calf, dainty foot, and mincing step are also admired by Europeans, as by scores of other races, but our own conception of what constitutes beauty in these characteristics differs considerably from that of the much admired and—from our point of view—grotesquely swollen calves (produced by the use of ligatures) favoured by the belles of the South American Uaupés, while the alleged beauty of the Golden Lilies—the tiny and artificially deformed feet of the higher class Chinese ladies—and the almost crippled gait which they produce is positively repugnant to us.

The possession of typical sexual beauty, then, has been and still is a very important factor in the determination of the choice of a marriage partner, and this has been so universally recognized that from time immemorial human beings have resorted to such practices as tattooing, cicatrization and ornamentation in order to attract attention by artificial means to their personal beauty in general, and to their more definitely sexual attractions in

particular. Ornamentation of some sort is practised everywhere, and is indulged in by even the most primitive of surviving savages. "Great as is the vanity of the civilized," writes Spencer, "it is exceeded by that of the uncivilized."[1] Two examples will suffice to illustrate this. "The Feugians," writes Hawkesworth, "are content to be naked," but "ambitious to be fine,"[2] while Eyre reports that even the most filthy and primitive of the Australian aborigines are inordinately vain of their decorations.[3]

Perhaps the most common form of ornamentation among primitive peoples is that of tattooing the body with designs or by making a series of ornamental cicatrices. "Not one great country can be named from the Polar regions in the north to New Zealand in the south," wrote Darwin, "in which the aborigines do not tattoo themselves,"[4] while Westermarck informs us that "There is no visible part of the human body, except the eyeball, that has escaped from being disfigured in this way."[5] As to the motive for these practices, Professor Westermarck—after a careful examination of all the evidence—writes: "It seems to be beyond doubt that men and women began to ornament, mutilate, paint, and tattoo themselves chiefly in order to make themselves attractive to the opposite sex—that they might court successfully, or be courted."[6]

Cicatrization, being a somewhat simpler process, is probably even more primitive than tattooing—the cicatrices or protuberances being usually produced by rubbing salt into incisions made in various parts of the body. The arrangement of these crude decorations, then, may rightly be regarded as offering some clue as to the motive that prompts so painful a custom, and a few examples of the art will enable readers to draw their own conclusions. Thus, among the arrangements of cicatrices favoured

[1] Spencer, *The Principles of Sociology*, vol. i., p. 64.

[2] Hawkesworth, J., *Voyages in the Southern Hemisphere*, vol. ii., p. 55.

[3] Eyre, E. J., *Journs. of Exped. of Dis. into Cen. Australia*, vol. ii., p. 209.

[4] Darwin, *The Descent of Man*, p. 875.

[5] Westermarck, *loc. cit.*, p. 169. [6] *Ibid.* p. 172.

by the women of a large number of African tribes, the author has often seen (*a*) a sequence of short horizontal bars or ridges extending across the upper surface of each breast from the commencement of the curvature to the aureole; (*b*) a design of perpendicular bars placed between the breasts and sometimes partially encircling them; (*c*) a sequence of bars above or below or in line with the centre of the breasts but not actually encroaching upon them; (*d*) a combination of the three last designs; (*e*) the aureoles and nipples encircled with a series of small wart-like protuberances, and (*f*) various arrangements of all types of cicatrices upon the abdominal, iliac, and inguinal regions that were blatantly suggestive and practically compelled attention. He has also seen, among other races, tattooed designs which, although admittedly artistic, served to accentuate sexual characteristics and undoubtedly directed attention to them. Hence we must agree with Westermarck that "The facts stated seem to show that the object of tattooing, as well as of other kinds of self-decoration or mutilation, was to stimulate the sexual desire of the opposite sex." [1]

Primitive dress, at least originally, probably served the same purpose. "A savage," writes Professor Moseley, "begins by painting or tattooing himself for ornament. Then he adopts a movable appendage, which he hangs on his body, and on which he puts the ornamentation which he formerly marked more or less indelibly on his skin. In this way he is able to gratify *his taste for change*."[2] If this is true, and we shall give evidence which clearly indicates that it is, it is apparent that dress was not a resultant of any sense of modesty, but that modesty was a later consequence of the habit of dressing. Indeed, Professor Letourneau reminds us that "Modesty is *par excellence* a human sentiment, and is totally unknown to the animals . . . and comparative ethnology proves that it must have resulted from the enforced chastity imposed on women under the most terrible penalties. . . . This ferocious restraint has resulted, especially

[1] Westermarck, *loc. cit.*, p. 181.

[2] Moseley, H. N., *Notes of a Naturalist on the "Challenger,"* p. 412.

in women, in the formation of particular mental impressions, corresponding psychically to the sentiment of modesty, and inducing a certain sexual reserve which has become instinctive.[1] Fear of the consequences of unchastity, however, by no means wholly accounts for the development of modesty, although it has undoubtedly contributed towards it. Painful self-consciousness, for example, also enters into the question. To differ slightly from the norm in dress or ornamentation, as also in physical beauty, is no doubt a source of gratification, but to differ so much as to become over-conspicuous is to approximate to freakishness and to invite ridicule, and consequently to suffer humiliation and shame. Thus Wallace records that the women at Mucúra in Brazil usually went about entirely naked, but that one of them possessed a *saía*, or petticoat, and when she put it on, as she sometimes did, she seemed " almost as much ashamed of herself as civilized people would be if they took theirs off." [2]

Interesting as the subject of the origin of modesty is, however, it is scarcely germane to our present purpose, which is to show that dress, like other forms of ornamentation, played an important part in human sexual selection, and that it was originally adopted in order to render its owner more attractive—and particularly, more sexually attractive. A few examples will suffice to illustrate this. Describing the Californian Indians, Mr. Powers informs us that a fashionable young Wintun woman wears a girdle of deer-skin, the upper part being decorated with brilliant bits of shell, and the lower slit into a fringe with a polished pine-nut suspended at the end of each strand.[3] The Australians of Port Essington, when visited by Macgillivray, wore girdles of finely twisted human hair, the men sometimes adding a tassel of the hair of a flying squirrel or opossum, suspended in front.[4] The women on the Lower Murray, writes Angas, make mats of grass or reeds, which they

[1] Letourneau, Ch., *The Evolution of Marriage* (trans.), pp. 56-7.

[2] Wallace, A. R., *Travels on the Amazon*, p. 537.

[3] Powers, G., *Tribes of California*, p. 233.

[4] Macgillivray, J., *The Voyage of the* " *Rattlesnake*," vol. i., p. 146.

fasten upon their backs, "tying them in front, so that they almost resemble the shell of a tortoise" [1]—otherwise they are completely naked, and their nudity is accentuated by the mat background. The Fijian girls, according to Dr. Seemann, "wore nothing save a girdle of hibiscus-fibre, about six inches wide, dyed black, red, yellow, white, or brown, and put on in such a coquettish way, that one thought it must come off every moment." [2] The Hottentot women wear a tiny apron suspended from the waist, and Barrow remarks that "Great pains seem to be taken by the women to attract notice towards this part of their person. Large metal buttons, shells . . . or anything to make a great show, are fastened to the borders of this apron," [3] while the same author reports that some Bushman women, whom he met, were naked save for a belt of springbok's skin, the front part being cut into threads that "were so small and thin that they answered no sort of use as a covering."[4] But scantier garments even than these are worn. Thus, among the Negroes of Benin, the girls are completely nude save for a few conspicuous strings of coral twisted around the waist; [5] the Tankhul Nagas wear no covering except a shell, or a narrow ivory ring;[6] and the only covering of the Admiralty Islanders is a shell—usually decorated with zigzag patterns—the dazzling whiteness of which forms a striking contrast with the blackness of the skin.[7]

The ornamental character of the "garments," if such a name can be given them, is obvious, and it is certain that they attract more attention, especially to those parts where they are worn, than does complete nudity. "In a state where all go perfectly nude," writes Westermarck, "nakedness must appear quite natural, for what we see day after day makes no special impres-

[1] Angas, G. S., *Savage Life*, vol. i., p. 85. [2] Seemann, B., *Viti*, p. 168.

[3] Barrow, J., *Travels into the Int. Southern Africa*, vol. i., p. 155.

[4] *Ibid.* vol. i., pp. 276 ff.

[5] Bosman, W., "Coast of New Guinea," in Pinkerton, *loc. cit.*, vol. xvi., p. 524.

[6] Watt, in *Jour. Anthr. Inst.*, vol. xvi., p. 365.

[7] Moseley, H. N., in *Jour. Anthr. Inst.*, vol. vi., pp. 397 ff.

sion upon us. But when one or another—whether man or woman—began to put on a bright-coloured fringe, some gaudy feathers, a string with beads, a bundle of leaves, a piece of cloth, or a dazzling shell, this could not of course escape the attention of the others; and the scanty covering was found to act as the most powerful attainable sexual stimulus." [1] With this opinion we entirely concur, for we have frequently noticed that, even to the unaccustomed European eye, complete nudity among natives attracts far less attention—after the first shock of surprise—than does such a scanty covering as a tiny ornamented apron or a fringed or brightly-coloured breast-cloth.

If further proof be wanted that the sole original purpose of such movable decorations was to attract attention and stimulate sexual desire, it will be found in the following facts. Among the Torres Strait tribes, the women make a petticoat of fine shreds of pandanus leaves which is "sometimes put on, especially by the young girls, and when about to engage in dancing." [2] The women of the Pegulloburras, another Australian tribe, normally go about quite naked, but on festive occasions wear a small fringe round their waists.[3] The women of the Brazilian Uaupés, who wear no covering whatever on other occasions, don a small *tanga*, or bead apron, when engaged in dancing,[4] while we have personally observed similar customs among some of the African tribes. Again, in many countries such decorations are worn only by single girls of marriageable age, the married women—having succeeded in securing husbands—going about entirely nude. This happens especially in some parts of Africa,[5] Australia,[6] and America.[7] Among other

[1] Westermarck, *loc. cit.*, p. 192.

[2] Macgillivray, *loc. cit.*, vol. i., p. 49; vol. ii., pp. 19 ff.

[3] Curr, *The Australian Race*, vol. ii., p. 472.

[4] Wallace, *Travels on the Amazon*, pp. 281, 493.

[5] Barth, *Reisen*, vol. ii., pp. 467 ff.: also author's personal observations.

[6] Barrington, *The Hist. of N. S. Wales*, pp. 467 ff.; Palmer, in *Jour. Anthr. Inst.*, vol. xiii., p. 286; Taplin, in Wood's *Native Tribes of S. Australia*, p. 15; Curr, *Australian Race*, vol. iii., p. 19.

[7] Southey, *Hist. of Brazil*, vol. i., pp. 240 ff.; Snow, *Cruise off Tierra del Fuego*, vol. ii., p. 46.

peoples, however, the rule is reversed, but here the habitual use of clothing has probably defeated its original purpose, having become "through long continued use . . . a sign of modesty, whilst perfect nakedness becomes a stimulus."[1] Finally, it not infrequently happens that among people who habitually go about naked only the openly dissolute assume a partial covering, rendering it unmistakable that the garment is used solely in order to render its owner more attractive. Thus, among the Saliras, only the harlots clothe themselves; [2] among the Tahitians, an attractive girdle of yellow "ti" leaves was worn only by a class of privileged libertines called the Areois; [3] and until comparatively recently in England, diaphanous or particularly attractive lingerie was associated in many people's minds with women of the courtesan or demi-monde type.

Beauty, then, both natural and artificial, is, and has always been, a stimulant to sexual desire and a very potent factor in influencing human selection, but it has by no means been the sole factor. Thus, among the lower species, we find that the possession of such qualities as health, bodily vigour, courage and pugnacity play as important a rôle as does the possession of typical beauty. "It is certain that amongst almost all animals there is a struggle between the males for the possession of the female. . . . Hence the females have the opportunity of selecting one out of several males," wrote Darwin.[4] Further, as regards this choice, he wrote, "The females are most excited by, or prefer pairing with, the most ornamented males, or those which are the best songsters, or play the best antics . . . and though they may not always select the strongest or best armed, they will select those which are vigorous and well armed, and in other respects the most attractive." [5] It is especially noteworthy, moreover, that the qualities of bodily health, vigour, courage and pugnacity are usually associated with the possession

[1] Westermarck, *loc. cit.*, p. 197.
[2] Lohmann, quoted by Westermarck, *loc. cit.*, p. 195.
[3] Ellis, *Polynesian Researches*, vol. i., p. 235.
[4] Darwin, *The Descent of Man*, p. 326.
[5] *Ibid.* p. 330.

of typical beauty. Beauty, however, must here be defined as the possession in a marked degree of all those physical and secondary sexual characteristics which are typical of the species, and if, as numerous biologists claim,[1] sexual selection is only a specialized form of natural selection, and marked secondary characteristics are dependent upon the possession of a surplus of bionic energy (of predominant katabolism in the males), it is quite apparent that health and beauty are synonymous.

In any case, a similar appreciation of health, vigour, pugnacity and courage is found among the women of savage races, and among many primitive peoples the women seek evidence of this when they select a husband. Thus we have observed that many of the Masai, and the Morans, or warriors, of the Maru Kikuya of East Africa wore a curious headdress fashioned from the mane of a lion. Only a man who had slain a lion single-handed with his spear was permitted to wear this dress, and it was significant that these men were the most eagerly sought after by the women. Similarly, Mr. Bock informs us that, "When a Dyak wants to marry, he must show himself a hero before he can gain favour with his intended," and in order to do this he has to secure a number of human heads by killing men of hostile tribes; and the more heads he collects, the greater will be the favour with which he will be regarded.[2] So great indeed is the love of courage and pugnacity among the women of some races that it not only determines their initial choice of a mate, but also governs their fidelity to him. Thus Letourneau informs us that, when the men of their own horde were beaten in battle, the Australian women sometimes went over to the camp of their conquerors of their own accord.[3] Ownership is also frequently governed by prowess among some of the Northern Indians. Thus Hearne records that, "it has ever been the custom among those people for the men to wrestle for any

[1] Geddes and Thomson, *The Evolution of Sex*; Brooks, *The Law of Heredity*; Mivart, *Lessons from Nature*; Cunningham, *Sexual Dimorphism.*

[2] Bock, C., *The Head Hunters of Borneo*, p. 216.

[3] Letourneau, *loc. cit.*, p. 58.

woman to whom they are attached; and, of course, the strongest party always carries off the prize. A weak man, unless he be a good hunter and well-beloved, is seldom permitted to keep a wife that a stronger man thinks worth his notice." [1]

The custom of staging definite contests between rival suitors for the possession of a coveted maiden, moreover, has by no means been confined to savage races. Thus we are informed that the beautiful Atlanta gave herself to the best runner; Danaus established a race among the suitors for his daughters, as also did Antaeus; rival mediæval knights engaged in jousts; duels were sometimes fought between suitors in Mexico,[2] and in India, in ancient times, it was the custom in royal circles to hold a tournament, called the "Swayamvara," or "Maiden's Choice," in which the victor was chosen by the princess as her husband.[3]

The probable origin of these and kindred customs is ably summed up by Westermarck. "We may infer," he writes, "that woman's instinctive inclination to strong and courageous men is due to natural selection in two ways. A strong man is not only father of strong children, but he is also better able than a weak man to protect his offspring. The female instinct is especially well-marked at the lower stages of civilization, because bodily vigour is then of most importance in the struggle for existence." [4]

It must not be supposed, however, that selection and discrimination were exercised by women alone. The human male, like the males of the lower species, may, owing to the stronger and more insistent urge of his passion, be more readily inclined to put up with the second best in the absence of the best, but when choice is possible he is inclined to be as discriminating as the females; were it not so there would be less fighting. Nor is beauty the only factor considered by the men even in primitive

[1] Hearne, S., *Journey from Prince of Wales Fort to Northern Ocean*, pp. 104 ff.

[2] Waitz, Ch., *Anthropologie der Naturvölker*, vol. iv., p. 132.

[3] Samuelson, J., *India, Past and Present*, p. 48.

[4] Westermarck, *loc. cit.*, p. 256.

societies. True, the savage has an appreciation of beauty in woman—or what to him passes for beauty—but he also requires such qualities as health, fertility, and domesticity. Thus, in many tropical countries where malaria not infrequently results in sterility, a man will not risk marrying a girl until she becomes a mother.[1]

Domesticity, or a capacity for hard work, even in very primitive communities, is almost as much prized in women as fertility. A wife is not only expected to give her husband labourers, but is also of value as a labourer herself. "A man," an old Barotze once informed the author, "hunts, fights, smokes, and drinks beer," and this more or less adequately describes the sole duties of man in most primitive societies. The women do the rest of the work—that is to say they practically build the huts, till the land, sow and harvest the crops, grind grain, cook, tend the fires, make such garments as are worn, bear and rear children, and sometimes even do most of the transport work. This possibly sounds like a very serious indictment of savage man, but as Professors Geddes and Thomson point out, "We shall not so readily abuse the poor savage, who lies idle in the sun for days after his return from hunting, while his heavy-laden wife toils and moils without complaint or cease; but bearing in view the extreme bursts of exertion which such a life of incessant struggle with nature and his fellows for food and for life involves upon him, and the consequent necessity of correspondingly utilizing every opportunity of repose to recruit and eke out the short and precarious life so indispensable to wife and weans, we shall see that this crude domestic economy is the best, the most moral, and the most kindly attainable under the circumstances."[2] But whatever our views on the matter, the

[1] Reade, W., *Savage Africa*, p. 547.

[2] Geddes and Thomson, *Evolution of Sex*, pp. 287-8. (*Note.*—In several primitive communities there is admittedly, at the present time, a very unequal division of labour among the men and women, but this is primarily because the white man has largely suppressed fighting and hunting, and the native has not yet readjusted himself to new conditions. Nemesis, however, in the shape of hut and poll taxes, is already overtaking him, and forcing him to take up new labours.)

fact remains that domesticity and a capacity for hard work were determining factors in influencing the selection of primitive man in the early tribal stage, and still does continue to influence men. Thus Fries informs us that the women of Greenland are chosen for their skill in sewing and in the management of the household.[1] The author has noted that dexterity in different types of feminine labour, particularly when reinforced by reasonably good looks, certainly influences the choice of many of the natives of Africa, India, Malaya, and the Netherlands East Indies; while de Bode reports that among the Turkomans, young widows fetch double the price of spinsters, owing to the fact that they are more accustomed to hard work, and more experienced in household concerns.[2]

Among very primitive peoples, then, the main factors in sexual selection have been a desire for and an appreciation of beauty, health, vigour, courage and pugnacity in man, and beauty, health, fertility, and the elements of domesticity in woman. But civilization, as we shall see later, has considerably augmented and complicated these simple primitive requirements.

[1] Fries, quoted by Westermarck, *loc. cit.*, p. 381.
[2] de Bode, in *Jour. Eth. Soc.*, vol. i., p. 75.

V

SELECTION MODIFIED BY CIVILIZATION

In the days of primitive monogamy our ancestors fought each other for their mates in much the same way as do the lower animals, and there was considerable rivalry among them for the possession of the most prepossessing females. With the advent of primitive civilization and polygamy, however, marriage, like most other human relationships, was considerably complicated. Instinct, or racial memory, probably still impelled men to go out and fight for a mate, but it is more than likely that the practice of capturing or abducting wives from hostile or neighbouring clans owed a great deal to the primitive and almost universal horror of incest.

Interesting as the problem of incest is, we can do no more than sketch its probable origin and development here. Relationships are extremely difficult to trace among animals living in a state of nature, since the offspring invariably disperse as soon as they are old enough to fend for themselves, hence it is almost impossible to tell if the mate selected by any particular animal upon reaching maturity is related or not—indeed, it is quite probable that the animal itself does not know. On the other hand, there is evidence to show that while certain domestic animals seem to have a preference for mating with strangers, the rule is by no means general, and it not infrequently happens that brothers and sisters, and parents and offspring interbreed. Thus the late Mr. Cupples informed Darwin that, among dogs, "the female generally favours a dog whom she has associated with and knows. . . . The male, on the contrary, seems rather inclined towards strange females," but Darwin adds, "It appears to be

rare when the male refuses any particular female."[1] There is no evidence, then, to show that animals possess any marked aversion to incest, while Mr. Huth maintains that, even among human beings, there is no real innate feeling against it.[2]

Among primitive polygamous peoples it frequently happens that half-brothers and half-sisters intermarry where the various wives of the same husband possess separate huts of their own; where each wife and her children form a separate sub-family, and where the sub-families are not upon particularly intimate terms with each other. It rarely happens, however, that such inter-marriages take place where the half-brothers and half-sisters have been reared together in the same dwelling or where they have been particularly intimate and friendly with each other. In brief, although there is no instinctive feeling against the inter-marriage of near relations solely on the ground of relationship, there is, as Westermarck maintains, "an innate aversion to sexual intercourse between persons living very closely together from early youth, and that, as such persons are in most cases related, this feeling displays itself chiefly as a horror of intercourse between near kin." [3] Similarly, Professor Robertson Smith remarks, "Whatever is the origin of bars to marriage, they are certainly associated with the feeling that it is indecent for housemates to intermarry," [4] while Plato wrote that an unwritten law, or as we should call it, an instinct, defends parents from incestuous intercourse with their children, and brothers from intercourse with their sisters, "nor does even the desire for this intercourse come at all upon the masses." [5]

If this is the true explanation of the origin of aversion to incest, it at once becomes explicable why it is rarely, if ever, found to exist among wild animals, and why traces of the feeling begin to show among domestic animals. Indeed, there can be

[1] Darwin, *The Descent of Man*, p. 800.

[2] Huth, A. H., *The Marriage of Near Kin*, pp. 10-14.

[3] Westermarck, *loc. cit.*, p. 320.

[4] Smith, W. Robertson, *Marriage and Kinship in Early Arabia*, p. 169.

[5] Plato, quoted by Westermarck, *loc. cit.*, p. 319.

but little doubt that the stimulating physical impressions which give rise to sexual passion are but rarely aroused by that which is familiar and intimate, and it was doubtless the recognition of this truth which inspired the Arab proverb, "The new comer filleth the eye," [1] and why another Arab proverb runs, "Marry the distant, marry not the near." [2] Indeed, it is generally only among persons possessing diseased or vitiated passions that incest is possible, although necessity sometimes demands it among small and completely isolated communities where the men are reduced to the Hobson's choice of either marrying a near relative or going wifeless.[3] Thus Westermarck asserts that endogamy, or marriage within the clan, "never, *except in cases of extreme isolation*, seems to occur among peoples living in very small communities with close connections between the members." [4]

It may be assumed, then, that man in the early stages of civilization obtained a mate by capture, and that this accounts for the comparative universality of exogamy, or marriage outside the clan. The instinctive feelings that prompted this have already been indicated, but it is possible, as Spencer suggests—although he arrives at a different conclusion—that another motive may have contributed to the popularity of the custom. Thus he suggests that a captured woman, besides her intrinsic value, has an extrinsic value, and that although, like a native wife, she serves as a slave, "unlike a native wife, she serves also as a trophy," and that "an increasing ambition to get foreign wives will therefore arise." [5] Whatever the origin of the custom, however, it is certain that the practice of capturing wives outside

[1] Burton, Sir Richard, *First Footsteps*, p. 119.

[2] Burton, *loc. cit.*, p. 60.

[3] *Note.*—Incest, of course, is by no means uncommon in modern civilized countries, but is usually confined to the criminal classes and to slum districts where squalor and overcrowding necessarily result in the blunting of natural instincts and in moral degradation. The vast majority of people, however, have always recognized the vice as something completely abnormal.

[4] Westermarck, *loc. cit.*, p. 332.

[5] Spencer, *Principles of Sociology*, vol. i., pp. 619 ff.

the clan or tribe was, at one time, almost universal. A few examples will illustrate this.

"Throughout Melanesia," writes Letourneau, "capture has been the primitive means of procuring wives." [1] The same is true of Australia, where the girls are so familiar with their impending fate of marriage by capture or rape that the simulation of rape is one of the games indulged in by the children.[2] One of the many methods adopted is as follows. The Australian who desires a woman belonging to another tribe prowls around the camp until he sees a woman by herself. He then rushes up, stuns her with his club, seizes her by her thick hair, drags her into the bush, and, when she recovers consciousness, forces her to follow him to his own camp, where he violates her before witnesses.[3] According to Letourneau a similar custom existed among the Papuans of New Guinea, and among the Fijians,[4] while Campbell reports that the Damara Hottentots often steal wives from the Namaquois Hottentots.[5] In Tierra del Fuego, the young Fuegians carry off a woman as soon as they are able to procure a canoe; [6] the Oen Patagonians raid the Fuegians every year at the time of "the red leaf" and carry off their women, their dogs, and their weapons.[7] The Indians on the banks of the Amazon and Orinoco, reports Fitzroy, continually capture their women; consequently every tribe is sometimes nearly without women and sometimes overflowing with them.[8] Similarly, the Caribs so frequently obtained wives by capture that their women did not often speak the language of the men; [9] while Anderson informs us that, among the Bushmans, woman is only too often *belli teterrima causa*. [10]

[1] Letourneau, *Evolution of Marriage*, p. 90.
[2] Collins, *English Colony in New South Wales*, p. 362.
[3] Dumont d'Urville, in *Hist. Univ. des Voy.*, vol. xviii., p. 225.
[4] Letourneau, *loc. cit.*, p. 91.
[5] Campbell, in *Hist. Univ. des Voy.*, vol. xix., p. 343.
[6] Laing, in *Hist. Univ. des Voy.*, vol. xxviii., p. 31.
[7] Fitzroy, *Voyage of the "Beagle,"* vol. ii., p. 182.
[8] *Ibid.* vol. ii., p. 205.
[9] McLennan, *Primitive Marriage*, p. 48.
[10] Anderson, C. J., *The Okavango River*, p. 143.

There is ample historical evidence, moreover, to prove that this custom was very widely practised in ancient times. Thus, the Bible informs us that the tribe of Benjamin procured wives by massacring the inhabitants of Jabesh-Gilead, capturing four hundred of their virgins,[1] while the same tribe carried out another raid on the virgins of Shiloh when they were dancing at a feast held near Bethel.[2] Again, when the Israelites defeated the Midianites, following the usual Semitic custom, they killed all the men but kept the women and children and cattle. Moses, however, ordered the murder of the married women and male children, but permitted the retention of the young girls and virgins.[3] In ancient Greece, the capture of wives and concubines was undoubtedly common, for most of Homer's heroes added to the number of their wives in this way, while the well-known case of the rape of the Sabines shows that the practice was common among the ancient Romans. That it was also common in ancient India is proved by the fact that one of the eight forms of marriage legalized under the *Laws of Manu* was "the forcible abduction of a maiden from her home, while she cries and weeps, after her kinsmen have been slain or wounded and their houses broken open."[4]

In addition to the examples of actual bride capture which we have given, there is ample evidence to show that, even among existing primitive peoples who do not now obtain their wives in this manner, the practice nevertheless existed in earlier times. This is clearly shown by their wedding ceremonies of mock capture which are obviously survivals of the original practice of capturing brides. Thus the author found that among several of the Bantu tribes, now practising bride purchase, it is customary either for the bride to make a pretence of struggling, or to run into the bush or forest and hide. Similarly, in New Zealand, a Maori, in order to marry a girl, had to apply either to her father

[1] Judges, ch. xxi., vv. 12 ff.
[2] *Ibid.* ch. xxi., vv. 19 ff.
[3] Numbers, ch. xxxi., vv. 11 ff.
[4] *The Laws of Manu*, bk. iii., vv. 26 ff.

or nearest relation and, having obtained formal consent, was compelled by custom to ravish his bride, who was similarly bound by custom to resist energetically. As the Maori girls are particularly robust, we are informed by Mr. Earle that the contest, however courteous it might be, was severe; the clothes of the girl were generally torn to shreds, and it sometimes took hours to drag her a hundred yards.[1] Among the Bedouins of Sinai, the bridegroom, accompanied by a couple of friends, attacks the girl whom he desires to marry while she is leading the flocks home. She defends herself vigorously by throwing stones, and is esteemed according to the energy of her defence. When she is finally overcome, she is taken to her father's tent, the name of the bridegroom is announced, and the nuptials are duly celebrated.[2] With the Mezeyn Arabs the pantomime capture is even more elaborate. Here the girl, mounted on a swift horse or camel, must evade the pursuit of the bridegroom and take refuge at a place in the mountains where her friends have prepared provisions for her. Here she is eventually joined by her future husband, the marriage is consummated, and the couple return to the paternal domicile.[3] Again, in Wales, it was the custom for the bridegroom and his friends to come for the bride on the wedding day mounted on horses. Upon arrival they found the friends of the bride, also mounted, awaiting them, and a mock fight took place during which the bride had to flee on the crupper of the horse of her nearest relative. The bridegroom's party immediately gave pursuit, and the whole proceedings were terminated with a feast.[4]

In some cases the ceremonial was somewhat less obvious, but nevertheless significant. Thus, in ancient Rome, among the ceremonies associated with a patrician marriage was the custom of separating the hair of the bride with the point of a javelin

[1] Earle, *Residence in New Zealand*, p. 244.

[2] Burckhardt, J. L., *Notes on the Bedouins and Wahabys*, vol. i., p. 263.

[3] Letourneau, *loc. cit.*, p. 99.

[4] Kames, Lord, *Sketches of the Hist. of Man*, bk. i., sec. 6.

(*hasta celibaris*),[1] and preferably with a javelin that had pierced the body of a gladiator. Again, when the bride was conducted to her future home by her husband, she had to be lifted over the threshold.[2] This last custom, curiously enough, is still practised in China, on the one hand, and in some parts of England and several European countries, on the other. The custom in these days is usually attributed to luck, but its origin is obvious; in fact, some Europeans even now declare that the custom ensures the dominance of the husband in the future wedded life of the couple—a dominance which was very real in the days when the bride was literally carried off by force.

There is ample evidence to show, therefore, that the practice of obtaining wives by capture was practically universal, and that, although there were very probably exceptions to the rule, it was a phase passed through by the majority of peoples in the early days of civilization. In much the same way there is also ample proof of the fact that, with the further development of civilization, the custom fell into disfavour and was gradually succeeded by marriage by purchase, a form of marriage so universally practised that, according to Westermarck, it may "be said to form a general stage in the social history of man." [3]

It has been suggested by both Spencer [4] and Koenigswarter [5] that the transition from marriage by capture to marriage by purchase was brought about by the abductor offering compensation to the parents or relations of his captured bride in order to escape reprisals or vengeance, and that in the course of time it became customary to make such a present or payment beforehand. This would seem to be extremely feasible, for conditions such as those which existed among the Indians of the Amazon, the Caribs, and the early Semites, must have made anything in the nature of a stable society impossible. Moreover, there is

[1] Plutarch, *Romulus*; Ovid, *Fasti*, ii.
[2] Lucan, ii.; Virgil, *Æneid*, lv.
[3] Westermarck, *loc. cit.*, p. 399.
[4] Spencer, *Principles of Sociology*, vol. i., p. 625.
[5] Koenigswarter, L. J., *Etudes Historiques*, p. 53.

direct evidence to show that, at least in some cases, the transition actually did take place in this manner. Thus, among the Ahts, we are informed by Mr. Sproat that when a man steals a wife purchase invariably follows, "as the friends of the woman must be pacified with presents." [1] Among the Turkomans, writes Letourneau, "If a suitor cannot immediately get together the price of the woman he covets, he has recourse to marriage by capture, and takes refuge with his bride in a neighbouring camp. A settlement is always effected, matters are compounded, and the ravisher engages to pay a certain number of camels and horses, which he generally procures by marauding on the frontiers of Persia." [2] Similar practices occur among the Maoris,[3] and the Papuans of New Guinea,[4] while the author personally came across cases among several of the Bantu tribes where peace has been restored after an abduction of a girl by the subsequent payment by the husband of the customary *lobolo*, or purchase price, to the bride's father.

"The simplest way of purchasing a wife," says Westermarck, "is to give a kinswoman in exchange for her," [5] and, according to Mr. Curr, the Australian aborigine "almost invariably obtains his wife or wives, either as the survivor of his married brother, or in exchange for his sisters." [6] A similar exchange sometimes takes place in Sumatra, while, among several of the peoples of the Near East, it is quite common, especially in royal and wealthy circles, for a son to inherit the harem of his deceased father.

Among some peoples it is common for a man to purchase his wife by services rendered to her father. Among the Mayas, for example, a bridegroom was required to build himself a house opposite that of his father-in-law, to live there for five or six

[1] Sproat, G. M., *Scenes and Studies of Savage Life*, p. 98.

[2] Letourneau, *loc. cit.*, p. 116.

[3] Taylor, *New Zealand*, pp. 336 ff.

[4] Waitz-Gerland, *Anthropologie der Naturvölker*, vol. vi., p. 633.

[5] Westermarck, *loc. cit.*, p. 390.

[6] Curr, *The Australian Race*, vol. i., p. 107.

years, and to give his labour during this period.[1] The Limboos and the Kirantis of Bengal also obtained wives by labouring for a stipulated number of years, and were obliged to live with the father-in-law until the term of service was expired.[2] This custom, which is still widely spread among existing primitive peoples, was also practised among the early Semites, as witness the familiar Biblical story of how Jacob served Laban for seven years in order to obtain Rachel, but was given Leah, and compelled to serve for a further seven years for the coveted Rachel.[3]

By far the commonest way of purchasing a bride, however, is to pay property to her father. Such property may be of almost any nature. Among the Red Indians, it usually takes the form of horses, blankets, or buffalo-robes—as many as ten or twelve cayuse ponies being sometimes paid for an attractive girl.[4] Among the Bantu tribes, from three to ten head of cattle is recognized as the normal *lobolo*, although on one occasion, in a very poor kraal, the author witnessed a transaction in which a *badza*, or native hoe, and six scraggy Mashona fowls were accepted. In India, the price may take the form of money, rice, furniture, or almost any other property; in Samoa, canoes or pigs were usually paid,[5] while among the Fijians, "the usual price is a whale's tooth, or a musket."[6]

Not only is the custom of purchasing wives common among surviving primitive peoples, but there is evidence to show that it has existed at some time or other in the history of practically all civilized peoples. Aristotle tells us that the ancient Greeks were in the habit of purchasing wives;[7] Herodotus records that the custom existed among the Thracians, Chaldeans, and Babylonians,[8] and Koenigswarter assures us that it was common

[1] Bancroft, H., *Native Races of the Pacific States*, vol. i., p. 662.

[2] *Ibid.* vol. i., p. 109. [3] Genesis, ch. xxix., vv. 18 ff.

[4] Powers, S., *Tribes of California*, p. 247.

[5] Turner, *Samoa*, p. 93.

[6] Wilkes, C., *Narrative of the U.S. Exploring Expedition*, 1838-42, vol. iii., p. 92.

[7] Aristotle, *Politics*, vol. ii., p. 8.

[8] Quoted by Westermarck, *loc. cit*, pp. 395, 396.

among the Assyrians.[1] That it was once practised among the ancient Romans is proved by the fact that a relic of the custom survived in the plebeian form of marriage known as *coemptio*, where the husband, upon receiving his bride from her father, formally handed over a few pieces of money. The early Hebrews also purchased their wives, and records of this may be found in the Bible in the books of Ruth,[2] and Hosea.[3]

With the introduction of marriage by purchase, a new and artificial element was introduced into human selection. As far as the men were concerned, personal attraction, muscular strength, valour in war, or prowess in hunting, were no longer sufficient means of attraction in obtaining wives. Wealth gradually began to become the main criterion; the number of wives obtainable by a rich man, no matter how unattractive, was limited only by the amount of his wealth: the penniless man, no matter how attractive, would find it practically impossible to obtain a wife. But while attractiveness and personal adornment in men began to be of secondary importance to the possession of some negotiable form of property, it became increasingly important among women, for naturally the most beautiful and attractively dressed girls—other qualifications being equal—were the most eagerly sought after, and fetched the highest prices. The effect of this, of course, was to place a premium upon feminine adornment and vanity. Prior to the development of marriage by purchase it was undoubtedly the man who indulged in the most elaborate tattooing and adornment: in modern society it is undoubtedly the woman who pays most attention to her dress, jewellery, and the artificial heightening of her beauty, and we are of the opinion that the change was due primarily to the artificial element in human selection introduced by the development of marriage by purchase.

As man became more civilized, however, he began to regard with repugnance the purchase of wives and the sale of daughters. This feeling in all probability first developed among the ruling

[1] Koenigswarter, *Etudes Historiques*, p. 22.

[2] Ruth, ch. iv., v. 10. [3] Hosea, ch. iii., v. 2.

and wealthier classes who took the first steps in abolishing it; their example being followed in turn by the poorer classes. That this actually happened in India is proved by the fact that the *Asura*, or purchase, form of marriage was originally lawful and practised by all four castes, but afterwards fell into disrepute and was prohibited among the Brahmans and Kashatriyas, and, still later, was forbidden to all alike by the *Laws of Manu*.[1] In ancient Greece, marriage by purchase had practically ceased at the opening of the historical period, as also among the Romans. In Germany, the advent of Christianity put an end to the custom,[2] while in England it was prohibited by King Canute.[3]

The popular sentiment which led to the initial disappearance of the custom and prepared the way for its legal abolition probably manifested itself in two different ways. In some cases the purchase price probably became smaller until it began to take the form of a more or less arbitrary present to the parents, while there is evidence to show that, in other instances, the purchase sum was slowly transformed into a morning gift or dotal portion. Thus, in time, either a part or the whole of the purchase price was given by the father to the bride. This happened in India, and the *Laws of Manu* laid it down that "When the relatives do not appropriate for their use the gratuity given, it is not a sale; in that case the gift is only a token of respect and of kindness towards the maiden."[4] Similarly, among the Greeks of the Homeric age, the father bestowed a portion, and sometimes the whole, of the wedding gifts upon his daughter as her marriage portion;[5] this was also customary among the Teutons.[6] In much the same way the ancient Hebrew bridegrooms gave a part of the *mohar* to the bride, as witnessed by the account in Genesis, where it is recorded that Abraham's servants "brought forth

[1] *The Laws of Manu*, ch. iii., vv. 23-25.

[2] Grimm, J., *Deutsche Rechts-Alterthümer*, p. 424.

[3] Koenigswarter, *Etudes Historiques*, p. 33.

[4] *The Laws of Manu*, ch. iii., v. 54.

[5] Westermarck, *loc. cit.*, p. 406.

[6] Ginoulhiac, *Histoire du régime dotal*, 187 ff.

jewels of silver, and jewels of gold, and gave them to Rebecca: he gave also to her brother and to her mother precious things." [1] It seems highly probable, therefore, that the purchase price which was originally handed to the bride's father or relations, was later divided between the bride and her parents, and that, at a still later stage, the whole of the price or gift was handed direct to the bride by the bridegroom as a morning gift. It is possible that a relic of this custom still survives in Europe in the form of the convention which ordains that the house and furniture of the future joint menage shall be provided by the husband.

In much the same way the custom of the father presenting his daughter with a wedding gift—originally a share of the purchase price received by himself from the bridegroom—was continued long after the practice of marriage by purchase had ceased. This gift was sometimes very considerable, and in this way marriage by purchase developed into its very opposite, namely marriage by dower, and the elegibility of a girl grew to bear a definite relationship to the amount of *dos* or dowry which she would receive. Thus, in some instances, the matrimonial scales were turned with a vengeance.

This dotal or marriage portion often served different ends. In some cases it implied that the wife as well as the husband was expected to contribute to the joint expenses of the household; in others, it was intended as a settlement upon the wife in the case of her husband's decease, or in the event of the dissolution of the marriage through divorce. Usually the husband had the usufruct of the settlement as long as the marriage lasted. We shall consider this later, however, when dealing with divorce.

In Rome, the *dos* was intended to be the wife's contribution towards the expenses of the marriage state. It was regarded as the husband's patrimony, and could be disposed of by him without his wife's consent.[2] Towards the end of the Republican era, however, this right was modified, and the *Lex Julia de adulteriis*

[1] Genesis, ch. xxiv., v. 53.

[2] Ginoulhiac, *Histoire du régime dotal*, p. 70.

precluded the husband from alienating dotal land without the wife's consent. Still later, a law of Justinian prohibited its alienation altogether. After the decay of the Roman Empire the custom of dotal allotment was carried on by the Roman Church and came to be regarded as an inalienable security for the wife.

Among the early Germans, the bride-price was given to the bride and became her exclusive property, and in addition, she received from her parents an endowment as a compensation for her inheritance.[1] Similar practices prevailed among the Slavs, Welsh, and Irish.[2] The Hebrews and Muhammadans still regard it as a religious duty for a man to give a dower to his daughter; in most Latin countries it was a legal obligation, and although it ceased to be compulsory in France under the Code Napoleon, it is still universally practised, and is largely responsible for those habits of thrift and frugality that are so conspicuous in the French. It is possible that a relic of the custom of giving a daughter a dower still survives in England in the convention which requires the bride's parents to provide the household linen and the girl's personal trousseau.

The growth of civilization has also been responsible for other complications in human selection besides that of a consideration of wealth. Among primitive peoples true connubial love or affection is extremely rare. Thus, Mr. Sibree reports that, among the Hovas, the idea of love between husband and wife is hardly thought of, although there is "no lack of strong affection between blood relations—parents and children, brothers and sisters, grandparents and grandchildren."[3] Similarly, writing of the natives on the Gold Coast, Major Ellis remarks that, "love as understood by the people of Europe, has no existence";[4] while among the Cittagong Hill tribes, Captain Lewin reports that marriage is regarded as merely a convenient

[1] Weinhold, K., *Deutsche Frauen*, vol i., p. 331.
[2] Westermarck, *loc. cit.*, p. 413.
[3] Sibree, J., *The Great African Island*, p. 250.
[4] Ellis, A. B., *The Tshi-speaking Peoples*, p. 285.

and animal connection, and that they have "no idea of tenderness, nor of chivalrous devotion." [1] The author himself has also noted, particularly among some of the peoples of Africa, India, Malaya, China, and the Netherlands East Indies, the existence of a strong parental affection side by side with a complete absence of any semblance of true connubial love. A devoted mother is not necessarily a devoted wife—frequently she is the reverse—the maternal devotion being very largely the expression of a racial instinct reinforced by the gratification of autocratic power and the enjoyment of certain physiological processes, whereas connubial affection demands the highest standard of pure altruism, and is a concomitant of high civilization. "The sociable interest," writes Professor Bain, "is by its nature diffused: even the maternal feeling admits of plurality of objects . . . but the greatest intensity of love limits the regard to one." [2]

Where unlicensed polygamy exists true affection has little chance of development. This is only to be expected. Immediately a wife becomes pregnant she is thrust aside and another takes her place. Man's sexual appetite is thus perpetually stimulated, and the extent of a husband's intimacy with a particular wife is almost wholly governed by the quality and duration of her sexual ardour—in a word, lust, and not love, becomes the paramount factor in the connubial relationship. Again, where marriage by capture or by purchase exists, love, if it comes at all, must necessarily come after marriage, for the couple seldom see much of each other beforehand, and consequently the chances of ideal unions, capable of stimulating true affection, are comparatively rare. Thus, even at the present time in many Oriental countries, and especially in China and India, the youthful bride and bridegroom frequently do not see each other until the day of their wedding or betrothal, the match having been arranged between the parents or guardians by the ubiquitous go-between. Similar conditions also existed

[1] Lewin, T. H., *Wild Races of South-Eastern India*, *p.* 345.

[2] Bain, A., *The Emotions and the Will*, pp. 136 ff.

in ancient Greece, the consequences being so unfortunate that Plato felt impelled to urge that boys and girls should be permitted to meet more frequently before marriage.[1]

The recognition of love as the sole justification of marriage has been of very slow growth among civilized people—indeed it can scarcely be claimed to have won full recognition even at the present time. The primary ingredients of connubial love are undoubtedly sexual attraction and temperamental compatibility. Both existed, at least in a rudimentary form, among the animals, with whom natural marriage served the double purpose of preserving the species and ministering to the gregarious instinct. In man, however, particularly in the early stages of civilization, the sociable aspect of marriage tended to become subverted. Thus, when women came to be regarded principally as child-bearers, or domestic slaves; when they were isolated in harems, and the sole bond between husband and wife, or wives, was dependent upon physical beauty and sexual ardour, men found the social amenities of life outside rather than inside the home, and attached little importance to the nationality or social status of their wives and concubines, providing they were physically attractive or suitably domesticated.

The refining influence of more advanced civilization, however, not only brought the purchase of wives into disfavour and caused men to revolt against regarding women merely as forms of property akin to an ox or a maidservant, but also tended to re-stress the sociable aspect of marriage. True affection was not yet regarded as essential, but a certain broad compatibility of outlook came to be regarded as desirable, and even necessary. It has undoubtedly been this demand which has, since the abolition of marriage by purchase, been responsible for the existence of class, religious, and racial endogamy—the refusal of persons to marry outside their own social group, religious community or nation—among civilized peoples. Admittedly laws, either written or unwritten, have frequently forbidden such intermarriages, but these laws would not have been so widely obeyed

[1] Quoted by Westermarck, *loc. cit.*, p. 361.

had they not coincided with the inclinations of the individual. Thus, the real reason why inter-marriages between the so-called lower and upper classes rarely take place is not so much the fear of social disapproval or ostracism, but a recognition of the fact that the interests of the persons and their standard of life have so little in common that a lifelong association would be practically intolerable. It is all very well for Mr. Kipling to proclaim that:

> "The Colonel's lady and Judy O'Grady
> Are sisters under their skins,"

and it may quite possibly be true, but the fact remains that, as Dr. Courtenay Beale points out, "it will be a mistake for the young subaltern fresh from Sandhurst to marry Miss O'Grady and to present her to the Colonel's lady, his mother, on the strength of that subcutaneous sisterhood." [1]

Advancing civilization, however, is not merely tending to reintroduce the sociable aspect of natural marriage, but is also tending to regard marriage as the highest and most ideal form of human society. The man and woman who marries merely for a home or children; the man who seeks only a good housekeeper or hostess, and the woman who seeks nothing more in matrimony than to possess a universal provider, may be regarded as practical, but are no longer held in esteem. It is becoming increasingly recognized that a man and wife should be genuine companions and that a real affection should exist between them. This demand, furthermore, is very materially complicating human selection. "Affection depends in a very high degree upon sympathy," writes Westermarck. "Though distinct aptitudes, these two classes of emotions are most intimately connected. . . . Community of interests, opinions, sentiments, culture, and mode of life, as being essential to close sympathy, is therefore favourable to warm affection. If love is excited by contrast, it is only within certain limits. The contrast must not be so great as to exclude sympathy." [2]

[1] Beale, G. C., *Wise Wedlock*, p. 34.

[2] Westermarck, *loc. cit.*, p. 362.

We shall consider the requirements of modern matrimony in a later chapter, but in passing we must point out that the complexity of modern culture is rendering human selection extraordinarily complicated, and is, among the most highly developed persons, considerably limiting their field of selection. The comparatively uncultured labourer, thanks to his limitations, can usually find scores of women, any one of whom would make him a suitable wife. The highly intellectual or brilliantly accomplished man, however, will find his field of selection materially narrowed. In brief, modern civilization in making the selection of a matrimonial partner more difficult is correspondingly increasing the probability of mismatching.

To sum up, then, human selection has been complicated in many ways by civilization. In the early stages it tended to minimize the sociable aspect of natural marriage, to convert woman into a form of property, and to restrict selection by considerations of wealth and prestige; in the later stages it reintroduced the sociable aspect of matrimony, and complicated selection by attaching high importance to such considerations as emotional, moral, intellectual, and cultural qualities.

VI

THE DEVELOPMENT OF MONOGAMY, CONCUBINAGE, AND PROSTITUTION

In certain regions of the world and at certain periods of history, there has been a marked disparity in the numbers of the sexes which has undoubtedly been an important factor in determining the form of marriage in these particular localities. Taking the civilized countries of the world as a whole, however, the proportion of males and females appears to be fairly equal at birth, whereas, among adults, the females invariably show a marked numerical superiority, hence the widespread development of monogamy cannot, as some sociologists maintain, have been determined by the proportion of the sexes alone—otherwise the trend of marital evolution would have been towards, and not away from, polygamy. It follows, then, that we must look to other causes for an explanation of monogamic marriage.

Wealth and affection, as has already been shown, considerably complicated primitive human selection and the relationship of the sexes, and it is possible to show also that these same factors have been partially responsible for the growth of modern monogamy. Thus, it was the development of marriage by purchase which first converted woman into a form of property and which rendered the possession of wealth an important factor in the courtship of man, and it has been this same practice that has been mainly responsible for the limitation in the number of wives possessed by the average man in polygamous communities. In the many polygamous countries visited by the author, he has repeatedly observed that monogamy or bigamy is far more widely practised than is polygamy—a few wealthy or powerful men often possess from three to a half a score of wives, in addition, in some cases, to innumerable lesser wives or concubines—but the vast

majority of men possess only one or two. This is undoubtedly due to the fact that the poorer classes—which are always in the majority—cannot afford to purchase many wives, hence economic pressure tends of itself to encourage monogamy.

A part similar to that played by finance among the poorer classes has been played by considerations of prestige among the wealthier and more powerful. The wives of a chief or wealthy man are frequently drawn from all grades of society, and the purchase prices are by no means uniform. Girls of exceptional beauty and those who are unusually accomplished are naturally much sought after, and consequently command higher prices than their less favoured sisters. Similarly, the daughters of wealthy or influential parents cost more than do the daughters of poorer and humbler people. This is illustrated by the fact that among the Bantu tribes an ordinary girl usually fetches two or three head of cattle as her *lobolo*, while the daughter of a powerful *induna* or paramount chief can rarely be obtained for less than ten or twelve head. As a result the husband tends to value his most expensive wife rather more than the other occupants of his harem or zenana; a certain prestige is thus attached to her, and it not infrequently happens that she possesses a considerable amount of authority over the other brides.

It often happens, moreover, that wealthy and influential people, and the parents of particularly beautiful girls, stipulate that their daughters shall take prestige over the husband's other wives. This is very common where marriages are arranged between the couple during their minority by their parents, and it is extremely common for this first bride to be given the title of chief wife. Thus, among practically all the North American Indian tribes, the wife first married is the mistress of the house.[1] Among the Mexicans,[2] Mayas,[3] and Peruvians,[4] the wife first

[1] Heriot, *loc. cit.*, p. 324 ; Waitz, *loc. cit.*, vol. iii., p. 338 ; Sproat, *Savage Life*, p. 98 ; Gibbs, in *Contributions to N. American Ethnology*, vol. i., p. 198.

[2] Waitz, *loc. cit.*, vol. iv., p. 360.

[3] Bancroft, *The Native Races of the Pacific States of N. America*, vol. ii., p. 671.

[4] Vega, G. de la, *Royal Commentaries of the Yncas* (trans.), vol. i., p. 310.

married always took precedence. This rule also holds good among many of the Australian tribes,[1] the Maoris,[2] Polynesians,[3] Burmese and Santals.[4] The author has also observed that the wife first married is always regarded as the head wife among most of the Bantus, the Siamese, and Malays, while in China it is only the wife first married who possesses the legal status of wife, the others being merely concubines, holding positions analogous to those held by the handmaidens of the ancient Hebrew patriarchs. As already indicated, moreover, the first wife in China is the putative mother of the children of all lesser wives or concubines, and a Chinaman may not degrade the wife to the position of concubine nor elevate a concubine to the dignity of wife under penalty of the bastonnade with the bamboo of a hundred strokes for the first offence, and ninety for the second. It will thus be seen that polygamy in all these countries gradually tends towards practical monogamy.

Yet other factors which tend towards monogamy are the existence of passion and genuine affection. "It is not uncommon for an Indian," writes Carver, "although he takes to himself so many wives, to live in a state of continence with many of them for several years," and adds it sometimes happens that those who do not succeed in gaining their husband's favour "continue in their virgin state during the whole of their lives."[5] The author has also noticed that among the Bantus it is generally one wife, more often than not the youngest and best-looking, who alone shares the husband's hut while the older wives are relegated to their own *kias*, or huts, and have not, in many cases, cohabited with their husbands for a number of years. Thus, although a man may possess many wives he may virtually live with one only for very long periods.

It is not always the most beautiful or ardent wife, however,

[1] Dawson, *Australian Aborigines*, p. 33.

[2] Taylor, *New Zealand*, p. 338.

[3] Ellis, *Polynesian Researches*, vol. i., pp. 273 ff.

[4] Fytche, *Burmah, Past and Present*, vol. ii., p. 74; Dalton, *loc. cit.*, p. 216.

[5] Carver, J., *Travels through the Interior Parts of North America*, p. 368.

who wins the husband's affection. Mr. Lane informs us that although "in general, the most beautiful of a man's wives or slaves," among the modern Egyptians, "is . . . for a time, his greatest favourite . . . in many—if not most—cases, the lasting favourite is not the most handsome." [1] The existence of a lasting favourite inevitably means the modification of polygamy in the direction of monogamy, and where a genuine affection springs up between the husband and a first wife it may lead to actual monogamy, while where it develops between a man and one of his several wives virtual monogamy may again ensue.

Affection, of course, is not limited to highly civilized peoples. It exists among the animals, and occurs sporadically among so-called savage peoples. Thus, in Africa, the author found that contraventions of the various Native Marriage Ordinances constituted one of the most fruitful sources of litigation. In Rhodesia alone, he personally came across two cases of native fathers accepting *lobolo* for their respective daughters from old and wealthy suitors. These girls happened to be in love with young men not possessing sufficient cattle to purchase them, and in both cases they eloped with their lovers, and when compelled to return to their legal purchasers, committed suicide in despair. This argues the existence of a very strong affection, yet in most cases the affection of primitive peoples differs very considerably from our modern civilized estimate of love. Many natives, for example, will run considerable risks, and even death, in order to win the person with whom they happen to be in love, yet the men will invariably take other wives when their first ardour has worn off, and, so ingrained is custom, that it is questionable if the women would object even had they the power. It must be conceded, then, that it has been the gradual development of culture, with its concomitant refinement of human feelings, that has been responsible for our modern conception of love, and that those sentiments which led man to revolt against purchasing

[1] Lane, E. W., *An Account of the Manners and Customs of the Modern Egyptians*, vol. i., pp. 253 ff.

a wife, also led him to recognize that she could be as jealous as himself, and that it was not fair to expect her to lavish her affection upon himself alone when he was dividing his among many.

It is doubtful, however, if monogamy would have become so widespread had it not been for the decay of the old superstitions and prohibitions which separated husband and wife for such long periods, and had not civilization gradually lessened the labours of women and enabled them to retain their vigour and beauty for increasingly longer periods. The factors, however, which have contributed to the growth of modern monogamy have been so ably summed up by Professor Westermarck that we cannot do better than quote him.

"One of the chief advantages of civilization," he writes, "is the decrease of wars. The death-rate of men has consequently become less and the considerable disproportion between the sexes which, among many warlike races, makes polygyny almost a law of nature, no longer exists among the most advanced nations. No superstitious belief keeps the civilized man apart from his wife during her pregnancy and whilst she suckles her child; and the suckling time has become much shorter since the introduction of domesticated animals and the use of milk. To a cultivated mind youth and beauty are by no means the only attractions of a woman; civilization has made female beauty more durable. The desire for offspring . . . has become less intense. A large family, instead of being a help in the struggle for existence, is often considered an insufferable burden. A man's kinsfolk are not now his only friends, and his wealth and power do not depend upon the number of his wives and children. A wife has ceased to be a mere labourer, and for manual labour we have to a great extent substituted the work of domesticated animals and the use of implements and machines. Polygyny has thus, in many ways, become less desirable for the civilized man that it was for his barbarian and savage ancestors." Finally, "The refined feelings of love, depending chiefly upon mutual sympathy and upon appreciation of mental qualities, is scarcely

compatible with polygynous habits; and the passion for one has gradually become more absorbing." [1]

While it is true that these and other factors have been favourable to the development of monogamy, it is also true that many powerful factors have operated in the opposite direction. Thus, early monogamic marriage was everywhere tempered by the polygamic palliatives of concubinage, prostitution, and free unions, and these palliatives still exist in practically every part of the world. Nor can they be regarded as mere survivals ministering to the dying embers of primitive man's animal passions, for concubinage is still firmly entrenched in many countries, while prostitution and free unions are almost universally on the increase.

This is quite understandable. Man, as already pointed out, became more erotic in the early tribal stage than he was in the primitive savage and sub-human stages, and it can similarly be shown that the modern highly civilized man is more erotic than were the early tribesmen who developed polygamy. "Man," writes Dr. Courtenay Beale, "under civilization, has become more erotic than his sub human ancestors; it is equally true that civilized man is more erotic than most savage tribes, nor is this a sign of decadence. For civilized man is driven to reflect upon himself and his desires, he develops the power of looking before and after, and his imaginative powers grow by leaps and bounds; it is natural and inevitable that in the mind of such a being sex should occupy a far larger place than in that of the brute or the savage, and what is true of his mind is true of his general scheme of life. Poetry, fiction, drama, the fine arts, all combine to stimulate the sex-instinct." [2]

The sex-instinct of the savage, being little more than mere animal desire, is comparatively simple and soon satisfied; that of a highly civilized man is infinitely more complex. Feminine beauty has improved with civilization; dress tends increasingly to become the handmaiden of art; culture and the accomplish-

[1] Westermarck, *loc. cit.*, pp. 508, 509.
[2] Beale, G. C., *Wise Wedlock*, p. 14 n.

ments of modern life have increased the attractiveness of women; glamour and romance have increased—despite all statements to the contrary: consequently the sexual desires of civilized man are more constantly stimulated than were those of the savage; his keener imagination is more frequently directed towards sex, and, as his emotions are more complex, his sex life is less easily satisfied.

Facts such as these cannot possibly be ignored in any book claiming to deal honestly and impartially with the evolution of the relationship of the sexes, and, much as it may displease the conventional moralist, we are bound to take these factors into consideration—particularly as they are largely responsible for the present widespread rebellion against conventional moral standards among the younger generation—and to show the part they have played, and will probably increasingly continue to play, in the evolution of human marriage.

Although concubinage certainly bridges the gap between polygamy and monogamy in most parts of the world, it did not arise solely with the transition from the first type of marriage to the second, and there is ample evidence to show that the concubinate and polygamy existed side by side in the early history of civilization. The origin of concubinage is somewhat obscure, but it is highly probable, as Professor Letourneau points out, that originally it was "simply the conjugal appropriation of slaves, especially of women captured after a victory." [1] The conjugal appropriation of slaves is undoubtedly very old. Thus, among the ancient Hebrews, most of the wives of the patriarchs possessed handmaidens, or slaves, which they frequently gave to their husbands in order to obtain more children and so retain their husband's favour. Numerous records of this custom occur in the Bible, the best known being probably those of Sarai, who gave her maid Hagar to Abraham; [2] Rachel, who gave her maid Bilhal to Jacob,[3] and Leah, who also gave her maid Zilpah to Jacob.[4] Similar practices still

[1] Letourneau, *loc. cit.*, p. 160.
[2] Genesis, ch. xvi., v. 3.
[3] *Ibid.* ch. xxx., v. 3.
[4] *Ibid.* ch. xxx., v. 9.

occur in China, where a wealthy wife, who happens to be childless, will often urge her husband to take one of her maids in order that she may bear him children.

The custom of conjugally appropriating women captured in war, without granting them the status of wives, has existed among civilized peoples from time immemorial, and the refusal of marital status was undoubtedly due to the fact that the legal and purchased wives of the conquerors objected to captured women—who were automatically regarded as slaves—being granted an equal status to themselves. That the custom existed among the ancient Greeks is clearly indicated by Homer in the *Iliad* and *Odyssey*. Thus Thersites, addressing Agamemnon, says, "Thy tents are full of brass and of many most beautiful women, that we give first to thee . . . when we take a town." [1] Similar practices were not only widespread throughout the ancient world but have also existed in many places until comparatively recent times. Thus Letourneau reminds us that when Pedro de la Gasca defeated the party of Pizarro in Peru, in 1548, he distributed among his followers the widows of the colonists who were killed, and that at Asterabad, after a small local revolt, Hanway saw the Persian magistrates sell fifty women to the soldiers.[2] We are also informed by Houzeau that Peter the Great, after taking Narva in Livonia, sold to the boyars the wives of the inhabitants,[3] while Bruce records that in Abyssinia the victors habitually take possession of the wives of the vanquished.[4]

The vast majority of concubines, however, were purchased in much the same way as were wives, and as they were invariably cheaper a man could afford more concubines than wives, while in view of the fact that they were virtually slaves he possessed more power over them than he did over his legal wives. With the advance of civilization and the attainment of increasing

[1] Homer, *Iliad*, ii.

[2] Letourneau, *loc. cit.*, p. 162.

[3] Houzeau, *Etudes sur les facultés mentales des animaux*, vol. ii., p. 381.

[4] Bruce, *Les Abyssiniennes*, p. 13.

power by women, however, the concubinate, which still flourishes as a palliative to monogamy in countries like China, gradually became illegal and the place of the concubine, especially among peoples of European stock, has been taken by the prostitute, and by women entering into free unions.

Prostitution, despite the allegations of some sociologists to the contrary, is practically non-existent among primitive peoples. This is primarily due (*a*) to the existence of polygamy; (*b*) to the early age of marriage—often as soon as puberty is reached—in many countries, and (*c*) to the fact that among those communities where later marriages occur, the utmost sexual freedom is permitted. Thus, in Australia, the girls cohabit from the age of ten with young boys of fourteen without rebuke from anyone;[1] at Nukahiva, and generally all over Polynesia, young girls did not contract recognized marriages before the age of nineteen or twenty, and until these ages entered into a great number of capricious unions, which became lasting only in the case of the birth of children.[2] In the Andaman Islands the women give themselves up before marriage to the most unbridled indulgences,[3] while Westermarck remarks that "nowhere are unmarried people of both sexes less restrained than among the savage nations of India and Indo-China. Yet among these savage nations there is no promiscuity." [4] "Free sexual intercourse previous to marriage," says the same author, "is quite a different thing from promiscuity, the most genuine form of which is prostitution. But prostitution is rare among peoples living in a state of nature and unaffected by foreign influence. It is contrary to woman's natural feelings as involving a suppression of individual inclinations. In free sexual intercourse there is selection; a woman has for one man, or for several men, a preference which generally makes the connections more durable." [5] As a concrete example of this, Captain Lewin in-

[1] Eyre, *Discoveries*, vol. ii., p. 320.

[2] Porter, *Hist. Univ. des Voy.*, vol. xvi., p. 323.

[3] Teulon, Giraud, *Orig. de la Famille*, p. 68.

[4] Westermarck, *loc. cit.*, p. 71.

[5] *Ibid.* pp. 70, 71.

forms us that the Toungtha " draw rightly a strong distinction between a woman prostituting herself habitually as a means of livelihood, and the intercourse by mutual consent of two members of opposite sexes." [1] He also adds that prostitution is quite unknown to these people and had to be explained to them. Incidentally, we have personally found several cases of premarital laxity among the African Bantus, but no evidence whatever of commercial prostitution except among those tribes which have come into close contact with Europeans.

It is highly probable, therefore, that true prostitution originally began to develop side by side with marriage by purchase, and that, when—as still happens in many cases—a large number of men were precluded by poverty from marrying until comparatively late in life, a class of women arose who ministered to the sexual requirements of these compulsory bachelors.[2] This also explains why these women were forced to become harlots, for with the introduction of marriage by purchase we begin to find widespread evidence of husbands attaching great importance to virginity, and refusing to accept a bride who proves to be *non virgo intacta*. So exaggerated, indeed, became the demand for prenuptial chastity in women that it came to be regarded as

[1] Lewin, T. H., *Wild Races of South-Eastern India*, p. 193.

[2] Among the natives of Eddystone Island the utmost sexual freedom is permitted before marriage. Girls are more or less ceremoniously deflowered (*vanyoro*) shortly after attaining puberty. Deflowering is performed by a man—who may invite others to join him—who pays the girl's father a fee of one *poata* (arm-ring) and nine other rings of lesser value, in return for which he is entitled to cohabit with the girl for twenty successive nights. Thereafter, under the *varivosa* custom, the girl is entitled to cohabit with any lover she fancies, provided only that the man pays her father a fee of one *mbokalo* (another kind of arm-ring) for each two nights he spends " in the bush " with her. Unmarried men and girls, however, frequently cohabit with each other without any payment being made to the girl's parents. This is called *vagalia*, but if the couple are caught, the man must subsequently pay the normal *varivosa* fee to the girl's father. A strict taboo prohibits either the man or girl from ever mentioning the name of a lover enjoyed under the *varivosa* and *vagalia* customs. The normal purchase price for a wife is generally ten *poata*, and this probably accounts for the comparatively late age of marriage. (Rivers, W. H. R., *Psychology and Ethnology*, pp. 71 ff.)

In this island the transition from pre-nuptial sexual freedom to semi-prostitution seems due to the parents of girls.

almost the sole virtue required of them, with the result that, among the majority of peoples, a deflowered girl became unmarriageable, was regarded as a social outcast, and was inevitably doomed to swell the ranks of the newly formed class of prostitutes. Thus Heriot and others record that chastity in women was essential to marriage among the North American Indians;[1] Reade informs us that in many parts of Africa "no marriage can be ratified till a jury of matrons have pronounced a verdict of purity on the girl"[2] and others have recorded, and we ourselves have noted, that practically all African tribes permit the husband to return to her parents a girl who has lost her virginity, and to claim back the price paid for her.[3]

Similar laws also existed in China,[4] Arabia,[5] Persia,[6] and elsewhere, while among the Jews it was customary to hand over "the tokens of the damsel's virginity" to her parents to be kept as evidence in case her husband subsequently sought to repudiate her by bringing a charge of prenuptial unchastity against her. In the event of such a charge being made, the Mosaic Law stipulated that: "Then shall the father of the damsel, and her mother, take and bring forth *the tokens of* the damsel's virginity unto the elders of the city in the gate. And the damsel's father shall say unto the elders, I gave my daughter unto this man to wife. . . . And lo, he hath given occasion of speech *against her*, saying, I found not thy daughter a maid, and yet these are *the tokens of* my daughter's virginity. And they shall spread the cloth before the elders of the city. And the elders of that city shall take that man and chastise him; And they shall amerce him in an hundred *shekels* of silver, and give

[1] Heriot, *loc. cit.*, p. 339; Waitz, *loc. cit.*, vol. iii., p. 505.

[2] Reade, *loc. cit.*, p. 547; Park, *Travels in the Interior of Africa*, p. 221; Burchardt, *Notes on the Bedouins and Wahabys*, p. 151 n.

[3] Waitz, *loc. cit.*, vol. ii., p. 113; Johnston, "The People of Eastern Equatorial Africa," in *Jour. Anthr. Inst.*, vol. xv., p. 11; Reade, *loc. cit.*, p. 45.

[4] Gray, J. H., *China*, vol. i., p. 209.

[5] Westermarck, *loc. cit.*, p. 124.

[6] Polak, J. E., *Persien, Das Land und seine Bewohner*, vol. i., p. 213.

them unto the father of the damsel. . . . But if this thing be true, and *the tokens of* virginity be not found for the damsel: Then shall they bring out the damsel to the door of her father's house, and the men of her city shall stone her with stones that she die." [1]

In consequence of such practices, harlots have formed a class by themselves, and have existed in practically all civilized communities from time immemorial, though they have not always been uniformly regarded with the same contempt. That they existed among the early Semites is proved by the constant references to them in the Bible; the *nautch* girls of India, the *tikakie* of Japan, and the majority of the tea-house and so-called *sing-song* girls of China have also been harlots for countless years, while prostitution was so openly tolerated in ancient Greece that even Socrates and Pericles did not scruple about meeting in the house of Aspasia. The traffic thus established, moreover, has been exploited by all sorts and conditions of people. Japanese parents in straitened circumstances frequently sell their daughters for a number of years to the national brothels and incur no discredit thereby, while the girls are even honoured for their sacrifice—so perverted has become the national sense of morality. Lovers avail themselves of similar services, and "the Japanese romances repeat to satiety the story of the virtuous virgin who voluntarily submits to this servitude to save her father from misery, or to pay the debts of her betrothed." [2]

Religion has also degraded itself by exploiting prostitution, and most of the Tamil temples of India add very materially to their income by the prostitution of troops of dancing girls called *deva-dasi*, or slaves of the gods. And what fathers, lovers, and priests have not scrupled about, the ordinary man has regarded as a mere matter of business. "In primitive Athens," writes Letourneau, "the most eminent men possessed troops of prostitutes and drew a large revenue from them." [3] Arab slave-

[1] Deuteronomy, ch. xxii., vv. 15-21.

[2] Bousquet, G., *Le Japon de nos jours*, vol. i., p. 87.

[3] Letourneau, *loc. cit.*, p. 156.

dealers have traded women for immoral purposes for countless years, while the white-slave traffic in modern Europe, America, and elsewhere, has been responsible for kidnapping, drugging, and otherwise procuring or luring innumerable girls into what is virtually the most horrible kind of slavery.

Prostitution moreover has, within the last century, grown to an extent hitherto unprecedented, and numerous factors have contributed to this. Thus, although wives are no longer purchased among highly civilized peoples, the expense of supporting a wife has become so great in industrial communities that the average age of marriage has been raised and the number of bachelors has become formidable. "Progress," writes Mr. H. G. Wells in this connection, "has trivialized woman, and woman has trivialized civilization. She spends, just spends," [1] and the mania for spending seems to have infected all grades of society. In brief, an increasing number of modern wives demand comforts, and even luxuries, which the average husband is unable to provide, especially as in most cases the woman, despite whatever she may do in the home, makes no financial contribution of any sort to the joint menage. Men, therefore, have found it infinitely cheaper to have occasional resort to a professional woman than it is permanently to support a legal wife. Again, men and women have not only become more erotic with the progress of civilization but have also been subjected to increasing temptations by the multiplying luxuries of modern life. This, combined with the callous exploitation of girls' labour in the commercial world, has certainly contributed to the growth of prostitution. An attractive girl frequently finds herself working long hours every day in shop or factory for a pittance that scarcely suffices to keep body and soul together. She desires pretty clothes and pleasures that she cannot afford, but knows also that they are attainable—at a price. In innumerable cases she pays that price, and up till recently the result was—thanks to the puritanical code of morality that regarded chastity as practically the sole requisite

[1] Wells, H. G., *The Secret Places of the Heart.*

virtue in matrimony—the girl in due course became a harlot. Others again deliberately resort to prostitution as the easiest and most congenial means of obtaining a livelihood.

That prostitution is an unmitigated evil can scarcely be questioned, and it would seem to be equally evil for the harlot and the man who resorts to her. The puritanical will doubtless reflect that such a woman, being "no better than she ought to be," deserves no consideration, but this will not alter the fact that it was society and the laws of society that called the harlot into being and so made the world safe for puritans. Thus Schopenhauer remarks that prostitutes are "sacrifices on the altar of monogamy," while Balzac maintains that "they make their bodies a rampart for the protection of respectable families." Similarly, Judge B. Lindsey points out that in America, "Inquiries . . . show that in former years there was practically as much incontinence among boys as there is now, but that it was less apparent because then they sought prostitutes in the red light districts. Also, that with the breaking up of those districts, they turned to the girls of their own class, a thing they had seldom done in the past." [1]

The inference is that prostitution is a social advantage, at least as compared with free unions, but this is by no means certain. As far as the harlot herself is concerned sex is rendered bestial and physically repugnant by the comparative absence of free selection and any durable association. Frequently she is subject to violence; is preyed upon by all manner of persons; forfeits definitely the prospect of ever gaining affection and has her health and vitality impaired, while she frequently contracts and spreads those dread venereal diseases that are the bane of civilization and are yearly responsible for countless deaths. Nor is the case of the man much better. He too is liable to disease; the relationship, thanks to the absence of courtship, uncertainty and conquest, is stripped of all glamour, sentiment or romance; the crudity of barter, the absence of strong attraction, and the harlot's coldness or simulated passion, reduce the association to the

[1] Lindsey, B., *The Revolt of Modern Youth*, pp. 66, 67.

lowest and crudest form of animal lust, and the foundation is laid for habits of promiscuity which must be fatal to the man's capacity for genuine affection. Prostitution, in brief, scarcely possesses a single redeeming feature.

Fortunately, however, there is every indication that prostitution is already on the decline and that its eventual elimination is merely a matter of time. The evil of the institution is now almost universally recognized; public opinion is practically uniformly against it, and two very important factors, or rather combinations of factors, have already undermined its foundations and threaten its final overthrow. The first of these affects the economics of matrimony, the second involves changed conceptions of sexual morality. We will examine each in turn.

In the early days of civilization, and even down to the middle ages, a wife was economically self-supporting, and an asset rather than a handicap. A home practically produced all that the household required; the land and domesticated birds and animals produced adequate food supplies, and the wife, or the servants under her supervision, wove homespun cloth, made clothes, dressed leather, made boots and shoes, prepared their own soap and candles from animal fat, and performed a score of other services now undertaken by specialized industries: furthermore, the wife's dower formed a welcome addition to her husband's assets. With the advent of modern industrialism, however, conditions have changed; woman's ancient tasks have been taken from her one by one, until she no longer contributes to the economy of the household, no longer—in most cases—furnishes a dower, and instead of contributing to the household expenses makes increasingly heavy inroads into her husband's exchequer. Moreover, it actually became a social convention during the last century that it was absolutely undignified for a woman to contribute to the expenses of her home and family by productive labour of any sort.

Nemesis, however, was at hand. With the development of commercial competition men found it impossible to marry until comparatively late in life, and fathers discovered that they were

no longer able to support their daughters in idleness for indefinite periods. The result has been that, during the last few decades, girls in increasing numbers have been compelled to enter commercial or professional life and to become economically independent. The effect of this has been twofold. Girls are no longer forced into matrimony as their sole means of achieving a livelihood, and the old prejudice against a married woman financially assisting her husband—at least during the early years of marriage—is gradually being broken down. A modern couple, in brief, now find it possible to marry at a comparatively early age, since a joint menage on a double income is no more expensive than two individual menages on single incomes, and the wide dissemination of a knowledge of birth control has made it possible to postpone the advent of children until the husband is in receipt of an income adequate to support both them and his wife.

The second factor, the rapidly growing revolt against old conventional moral standards, is not only serving to eliminate prostitution, but also to reform marriage itself. It is fashionable, in some quarters, to treat this movement as a passing phase, as a mere reaction to war-time conditions; nothing, however, could be further from the truth, as will be shown by the following facts.

Judge B. Lindsey informs us that the majority of high-school boys and girls in America "go to parties, attend dances; and ride together in automobiles," and that "more than 90 per cent. of those who begin with hugging and kissing do not restrict themselves to that, but go further, and indulge in other sex liberties which, by all the conventions, are outrageously improper," and "are responsible for much nervous trouble among young girls, and for the prevalence of certain physical ailments which are peculiar to them. . . . Fifteen to twenty-five per cent. of those who begin with hugging and kissing eventually 'go the limit.' This does not, in most cases, mean either promiscuity or frequency, but it happens." [1]

[1] Lindsey, *loc. cit.*, pp. 56, 59, 60, 62.

These facts are distinctly startling, but the details are even more so. "The estimated percentages as to the number of boys in high school who have probably had sex experience ranges from thirty to ninety per cent. . . . My own opinion is that 50 per cent. is a safe and conservative estimate for all classes of high-school boys averaged together. It is the lowest estimate that I can find any degree of probability in; and for the most part it would apply to boys in the last two years of the high-school course." [1] According to Judge Lindsey, however, "The high-school boy is a much less dramatic figure than the high-school girl. Generally she sets the pace, whatever it is to be, and he dances to her piping." [2]

In estimating the number of sex delinquencies among boys and girls, Judge Lindsey is able to draw upon the data and experience he has gained in presiding, for more than a quarter of a century, over the famous Juvenile and Family Court of Denver, and he is careful always to quote the minimum estimates only. Thus, he points out that for every case of delinquency discovered, "a very large number completely escape detection. For instance, out of 495 girls of high-school age—though not all of them were in high school—who admitted to me that they had had sex experience with boys, only about 25 became pregnant. That is about 5 per cent., a ratio of one in twenty. The others avoided pregnancy, some by luck, others because they had a knowledge of more or less effective contraceptive methods. . . . Now the point is this: First, that three-fourths of that list of nearly 500 girls came to me of their own accord. . . . Second, the thing that always brought them to me was their acute need for help of some kind. . . . For every girl who came for help, there must have been a great many, a majority, who did *not* come because they did not want help, and therefore kept their own counsel." [3] Further, "During the years 1920 and 1921 the Juvenile Court of Denver dealt with 769 delinquent girls of high-school age. We kept a particularly close record of those cases. They

[1] Lindsey, *loc. cit.*, p. 66. [2] *Ibid.* p. 66. [3] *Ibid.* p. 64.

ranged in age from 14 to 17 years. Four hundred and sixty-five of them were no longer in school; 304 *of them were* . . . at least 2000 persons were directly involved in the cases of those 769 girls. For one thing, the boy had to be reckoned with. In addition, the two of them always had a circle of intimates, many of whom were in on the secret, and indulging in the same kind of experiences. . . . Consider, for example, that every one of those 769 girls of high-school age whom I helped in the biennial period of 1920 and 1921, there was *at least* one other girl whom this court knew nothing about and never reached. That, surely, is as conservative an estimate as could be asked. And yet, conservative as it is, let us see where it leads. It involves a *minimum* of 1500 girls of high-school age (not necessarily in school) in Denver as having indulged in some kind of sex delinquency. It involves the assumption that 608 of them were actually in school. Assuming that there are about 3000 girls, then, attending the high schools of Denver, that figure of 608 would represent about 20 per cent. over the period of two years, or 304 for each year, 10 per cent. per annum." [1]

" Let me repeat that these are minimum figures, and that they include only the ages 14, 15, 16 and 17. They do not include the ages 18, 19, 20, where there is doubtless a larger percentage of such delinquency. . . . Even the minimum figures are shocking. I handled about a hundred cases of illegitimate pregnancy last year. . . . *With every one of those girls it was touch and go whether to come to me, and arrange to have the baby, or to go to an abortionist and arrange not to have it.* . . . Suppose there were a hundred who chose the abortionist, just as there were a hundred who chose me. That would make a total of two hundred pregnant girls . . . by very moderate figuring indeed! Very good, we found from our own records that of the 495 girls we dealt with who confessed to illicit sex relations only 1 in 20 encountered pregnancy. In that case 100 pregnancies taken by us implies, on a ratio of 1 to 19, at least 1900 escapes from pregnancy; and 200 pregnancies would imply 3800 escapes

[1] Lindsey, *loc. cit.*, pp. 78, 79, 80.

from pregnancy. *And that among the girls of high-school age, some in school and some out of school, in a city of* 300,000 *population!* And these figures, let me say again, represent a *minimum* below the level of probability and common sense."[1]

The reader may possibly be inclined to assume that Denver is an exceptionally immoral city. This, however, is most certainly not the case. Judge Lindsey assures us that what is going on in Denver is also going on "*in every other town in the United States of America.* Make no mistake about that. And make no mistake about the fact that Denver is no worse, but, I think, a great deal better, than any other city of similar size with similar social problems."[2] Nor can the claim be justified, though it is frequently advanced, that the youth of America is inherently more immoral than our own youth. Furthermore, public opinion in America is beginning to recognize and tackle the evil, while a large section of the British public, with its usual and typical blindness, closes its eyes, draws its pharisaical garments closer, and indignantly proclaims that sexual delinquency is negligible in this country. Thus, quite recently, two London newspapers awarded prizes for film criticisms, and among the thousands of critiques submitted was a large percentage which criticized an American film entitled "Our Dancing Daughters"—the theme of which was sexual delinquency among American youth. Practically every critique published on this film definitely stated it was an insult to assume that such conditions existed among youth in general, and especially among the youth of this country, and that, as a matter of fact, the film was calculated to corrupt the innocence of English youth. By a curious coincidence, however, the most successful play in London at that time happened to be Mr. van Druten's *Young Woodley*, which dealt with sexual delinquency in English schools. Furthermore, it is a common accusation in America that the corruption of their youth was due to the importation of European standards of morality after the war, and that England played almost as large a part in this as did France.

[1] Lindsey, *loc. cit.*, pp. 80, 81. [2] *Ibid.* p. 42.

We are not concerned here with justifying or contradicting this American accusation—in point of fact we have reason to believe that the part played by the war was comparatively small—but we are concerned with the inane assumption that English youth is unaffected by modern conditions. The author has had considerable experience of scholastic work, both in England and various parts of the Empire, and he has succeeded in winning the confidence of many senior boys, and from their confessions and confidences he would estimate that a minimum of from 10 to 20 per cent. between the ages of 14 and 18 attending public and secondary schools have had improper sexual experiences of some sort—though they may not necessarily have gone 'the limit'—with girls. But this is not all. The percentage of those who have, if not habitually, at least upon some occasion indulged in onanism is unquestionably greater, and cannot be less than 25 per cent.; and the observations of other schoolmasters who have discussed the matter with the author completely vindicate these estimates. The percentage of delinquency among girls is harder to estimate. A vast number of schoolmasters seem to discover extraordinary little of the private lives of their pupils, and schoolmistresses appear to discover even less. Nevertheless, various mistresses have informed the author that they know that sexual delinquency exists among a minority of school girls—though it is very difficult to prove—and that even more school girls are guilty of tampering with themselves. The boys, however, provide a clue, and from their own confessions the vast majority of their partners in sexual delinquency have been girls who are either at school or who have recently left school. The delinquency among girls and boys who have left school and are in some form of employment, but under 18 years of age, is at least double the percentage among those at school, while the percentage among those above this age is undoubtedly equal to that in America.

We cannot, at this juncture, attempt to discuss the morality of such delinquencies among boys and girls of high-school age in England and America, but must categorically state that it is

unquestionably evil, both for the individuals and for the State. What does concern us, however, is the fact that this "Revolt of Modern Youth" is no passing phase, but is something that has to be faced, controlled and directed. What is happening among boys and girls at school—which is unwarranted, unnecessary, and could easily be suppressed by right methods—is chiefly interesting as being symptomatic of the larger revolt among the unmarried of both sexes above school-leaving age which cannot be suppressed and which is by no means so unjustified. There are growing signs, writes Judge Lindsey, "of rebellion on the part of modern youth; a rebellion which is youth's instinctive reaction against our system of taboos, tribal superstitions, intolerances and hypocrises." [1] Similarly, Dr. W. A. White says, "After the first four or five years of his life, in which the child is faced with 'don'ts' on every hand, there comes a period of several years during which his conflict with his surroundings is not so active. At adolescence, however, it flares up again, and once more he finds every natural instinct opposed by the conventions, the customs, and the taboos of the world around him.... The subject of sex—taboo for so many years—is now being openly discussed. Its problems can be debated freely now, and with this freedom of approach it is going to be possible to see for the first time where are the real values." [2]

"Youth is at least trying to think straight," writes Judge Lindsey. "It is trying because of the contagion of science; for science is an impersonal thing, and no respecter of traditions; and science is freeing the world. . . . The boy who can grind the valves or adjust the carburettor of an automobile, or who can put together a radio set with a technical understanding of its complexities, has learned a way of thought and scientific respect for facts to which his father at his age was a stranger. Likewise, the Flapper who makes her own living, votes, holds her own in competition with men, refuses to let the corset makers

[1] Lindsey, *loc. cit.*, p. 18.

[2] White, W. A., "A Doctor Sizes Up Youth," in the *Daily Express*, Feb. 18, 1929.

put stays on her, and snaps her fingers at 'styles' dictated by the makers of clothes, is capable of doing things her mother couldn't come within sight of. . . . It is true that Youth has always been rebellious, and that it has always succumbed finally to conservatism. They had the 'new woman' in the mid-Victorian period, and old-fashioned people wondered in alarm what the world was coming to. But Youth couldn't get away with it then. It didn't have the economic independence. Now it has it. Machinery has made that possible. Once Youth paraded and shouted with a wooden gun; but to-day the weapon is loaded. Make no mistake about it; this Revolt of Modern Youth is different; it is the first of its kind; and it possesses means for making its will effective . . . *and the sole question now is how soon and how effectively will the internal restraints of a voluntarily accepted code, which alone can keep people going straight, take their place.*" [1]

This Revolt of Youth is directed against both the demand for undeviating chastity among girls and the legal requirements of conventional marriage. According to Judge Lindsey "there are at least fifty thousand girls in New York living with men who are not their husbands," [2] and knowing both London and New York we are of the opinion that London can easily rival these figures. Free unions of a more or less durable nature, which are really natural marriages, however, will be considered later, and what here concerns us is the great increase in occasional and semi-promiscuous sexual intercourse—particularly among girls and young women between the ages of 18 and 35—which is effectively eliminating the necessity of commercial prostitution. Innumerable factors have contributed to this, not the least of which have been the loss of moral and religious convictions which heretofore have held nominal, if not undisputed, sway. The modern generation no longer fears its Creator—if, indeed, it admits His existence—nor Hell Fire, as did our forefathers. Old beliefs are in the melting-pot and others have not yet been evolved capable of winning universal acceptance. The

[1] Lindsey, *loc. cit.*, pp. 54, 157, 158. [2] *Ibid.* p. 167.

dogmatic designation of this thing as right and that thing as wrong by the older generation is no longer accepted merely because previous generations have been content to accept it. This generation wants to know why such a thing as pre-nuptial sexual intercourse is wrong, and when the older generation, as it generally does, rages in impotent fury at the presumption of such a question and shows itself quite incapable of advancing a rational explanation, Youth is more than ever convinced that the taboo is pure prejudice and is encouraged to flaunt it. Modern young women, moreover, for reasons already explained, are becoming more and not less erotic than were their sisters of a few generations ago; they are now economically independent, they possess an increasing knowledge of birth control and are thus able to avoid the disability of undesirable motherhood; they can see no legitimate reason why the standard of morality should be different for themselves and for men; they know that virginity is no longer universally required of them by their contemporary menfolk upon marriage, and they know, thanks to the disproportion of the sexes, that for at least a few generations there will not be enough husbands to go round.

The last two of these factors merit further consideration. Judge Lindsey draws attention to the fact that numerous men marry single girls who have had babies by other men. "The fact is worth pondering," he writes, "for this attitude on the part of men was an extremely rare occurrence even twenty years ago. The notion was once held universally that such a girl as Nora (an example quoted) was defiled and unclean. What has become of that once universal male conviction? I can answer the question very shortly. We are learning to think differently. . . . I once discussed this with a youth who had married such a girl. In explaining his attitude he said to me, 'Why, if Sarah had her child by a husband now dead or divorced from her, I'd love her just the same . . . and I'd marry her, wouldn't I? What's the difference? She's the same now as she would be then.'" [1]

[1] Lindsey, *loc. cit.*, p. 239.

The feeling is very much the same in England. Thus a young man, upon being asked if he would insist upon marrying a virgin, retorted: "Good Lord, no. I want to marry a girl worth having, not a prude. No vices no virtues, you know, and the majority of girls over twenty who have got much in them have kicked over the traces at some time or other much like we fellows." Whether this is deplorable or not, it is indubitably true of an increasing number of young women, and Judge Lindsey points out that, in America, the delinquents are usually those possessing "an overflowing of high spirits and abounding energy." [1] In brief, the modern young man may be taking a risk when he marries an unchaste girl, but he at least knows that she possesses certain positive qualities and virtues.

The disproportion of the sexes in England is undoubtedly responsible for a considerable amount of feminine unchastity. According to the 1921 Census Report there were 19,803,022 females in England as compared with 18,082,220 males, or 1095 females to every 1000 males. This does not sound very formidable, but it must be remembered that these figures include children under 10 years of age, among whom the boys very largely outnumber the girls, and the returns for rural districts where the proportion of the sexes is fairly evenly balanced. Where the real problem arises is in the great cities and towns, and the returns for the Administrative County of London serve to illustrate this.

Ages.	Females.	Males.	Excess of Females.	Excess of Males.
0-1	973	1,000	—	2,581
2-9	990	,,	—	2,797
10-19	1,072	,,	28,358	—
20-29	1,342	,,	111,547	—
30-39	1,258	,,	77,802	—
40-59	1,143	,,	69,025	—
60 and over	1,342	,,	60,011	—

Total Females, 2,412,944; Males, 2,071,579.
Proportion of 1,165 Females to 1,000 Males.[2]

[1] *Ibid.* p. 56.

[2] *Census of the County of London, 1921.*

These figures, as they stand, give an excess of 16·5 females to every 100 males, and 1·65 females to every 10 males. If, however, we concentrate upon the ages 20 to 39, which are the most vital as far as sex is concerned, we shall find that for every 2000 males there are 2600 females, or 130 females to every 100 males. This becomes even more significant when it is pointed out that it means 13 sexually mature women to every 10 males, or that approximately for every *four* women who can marry, *one* is condemned to spinsterhood. But this is not all. Innumerable men, from religious, financial, and personal motives, remain bachelors, and if these are subtracted, as they must be, from the total number of available men between the ages under consideration, it will be found that there will probably be over 14 females to every 10 males, or that for every *three* women who can marry, at least *one* will be condemned to spinsterhood.

The older generation who prized chastity above all the other virtues, frequently maintained that spinsterhood involved no real hardships, but all available scientific evidence contradicts this. A woman's body has, during the course of evolution, become highly specialized and adapted to sexual and reproductive functions, and—even though her desires, through habitual suppression or ill health, may not be clamant—she cannot repudiate the demands of her nature with impunity. It is true that human nature is extraordinarily adaptable, but it is also true that the complete and unnatural suppression of sex life exacts its own penalty. Thus it is a well-known, though often suppressed, medical fact that spinsters (*i.e.* virgins) are liable upon reaching middle age, and sometimes even earlier, to a number of more or less serious complaints and diseases which are directly traceable to the fact that they have lived unnatural lives.[1] The psychological results are even more apparent, and the peculiar-

[1] In 1859, Dr. Adolphe Bertillon published, in the *Dictionnaire encyclopédique des sciences médicales*, a monograph on marriage which proved from statistics that the celibate third of the French adult population was stricken with decay, and played the part of an inferior race by the side of the married two-thirds. It showed that, every year, these celibates numbered twice as many deaths, twice as many cases of madness, twice as many suicides, and twice as many criminals as the married portion of the popula-

ities attributed to "old maids," though often exaggerated, have a very strong foundation in fact. Complete sexual starvation, for example, unquestionably results in emotional poverty, gaucherie, over self-consciousness, and so on, and it very frequently induces nasty-mindedness and all sorts of sexual and moral perversions.

It may be argued that the majority of women do not realize this, and that consequently it cannot be held responsible for increasing sexual laxity. It is highly probable, however, that most healthy girls vaguely apprehend these dangers, while it is quite certain that an increasing number of young women comprehend them fully, and order their lives accordingly. A single example will suffice. A young lady of twenty-five, the very reverse of coquettish; cultured, serious-minded, and the holder of an honours degree, upon having her attention drawn to a particularly objectionable type of spinster, said: "If that's what chastity does, I'm not taking any chances. I'll wait till I'm thirty, but if I'm not married by then I shall most certainly go off the rails with someone." Upon being accused of jesting, she declared she was quite serious, and confessed that the sex question had frequently been debated among her girl friends at the university. Most of them, she explained, fully understood the dangers of an unnatural sex life, and recognizing that suitable marriage might not be possible—owing to the fact that women greatly outnumbered men—had decided upon an alternative. For herself, she had determined long ago that she would wait until she was thirty—as she preferred her husband, if she married, to be the only man in her life—but beyond that age she felt that the safeguarding of her mental and physical health should be her first consideration.

tion. The figures, as Professor Letourneau has shown, are subject to many modifications, but M. Bertillon's main contention remains unshaken. Thus, in England, the report of the *Census of the County of London, 1921*, informs us: "In nursing homes and in homes for lunatics the females are greatly in excess, with proportions of 2218 and 1669 per 1000 males." Here the females practically double the number of the males, and are entirely disproportionate to the slight excess in the *total* number of the female population.

Many intelligent, and by no means vicious, modern girls, however, go far beyond this. They refuse point-blank to tolerate a double code of morality—one for man and another for woman—and discriminate between a sexual liaison and the bond of comradeship and affection which is the dominant characteristic of true marriage. We shall discuss the morality of this in a later chapter, and, in passing, shall merely content ourselves with pointing out that the effect of such an increase of free sexual associations must be the diminution of professional prostitution. "Chastity has long been falling down the scale of feminine virtue from the days when it was not only the supreme but practically the only adornment needed by a good woman," writes Mr. Wells. "But if the new types no longer esteem virginity as a glory and chastity as an obligation, it does not follow that their code will tolerate a careless promiscuity and still less the mercenary exploitation of men's sexual desires." [1]

[1] Wells, H. G., *The World of William Clissold*, p. 79.

VII

THE DEVELOPMENT OF MARRIAGE AS A RELIGIOUS INSTITUTION

In the preceding chapters we have given some indication as to how natural marriage—which is essentially a personal and private relationship between two persons of opposite sex—gradually evolved into an official social institution. The first great step in this direction was taken with the introduction of marriage by purchase, which tended to convert wives into a form of property, and thus—since all civilized and semi-civilized peoples draft laws and regulations and impose taboos and punishments for the protection of property—inevitably subjected marriage to tribal and State control. The further development of marriage by purchase into marriage by dower also involved property rights and so encouraged the continuance of legal regulations and, finally, the growing recognition of the fact that the safety and prosperity of the community depended upon the number and efficiency of its citizens led to the State regarding itself as a sort of super-parent, and consequently subjected the family and marriage to still greater control. The development of marriage into a social and legal institution, then, is readily understandable, and it now remains for us to see how it was that marriage came to develop into a religious institution.

We are frequently reminded that "man is a religious animal," and although this may savour of triteness it is, nevertheless, a profound truism: indeed, it is the inevitable corollary of the fact that man is a thinking animal. The moment man began to reflect upon the phenomenal world around him, two solutions only served to explain the activity of Nature; namely, that all

objects possessing or seeming to possess animation were actuated either by (*a*) impersonal, or (*b*) personal, forces. The first conclusion led to magic which, as we have seen, profoundly influenced marital relationships; the second led to religion, which has even more powerfully influenced them. Among primitive peoples, however, little discrimination was made between magic and religion, but although both maintained man's credence for very long periods, religion, from the very first, probably exerted the greater influence.

This is readily comprehensible. It was, and is, a fact of experience that all personal action arises from volition, and primitive man, when he performed an action, was fully aware that his external act was the consequence of an inner act of will. He also assumed, on the ground of his limited experience, that "like produces like" and that "like is produced by like," hence he inferred that actions by his fellow-men were likewise due to acts of volition, and this inference was verifiable. The next step was simple and consisted of the extension of this principle to the actions of animals, but it was impossible to stop here, since actions were apparently not limited to what we now call animate objects. Thus he knew that a rock might fall from a mountain and kill him, or that a flood might arise and drown him, and, upon the principle that "like is produced by like," he could only assume that the apparent acts of the mountain or flood were due to indwelling animistic spirits capable of volition. The idea of an immanate spirit may seem entirely unreasonable to us, but to primitive man it was simply a legitimate inference from personal experience. In his dreams he experienced adventures just as we do. Some of them occurred in localities unknown to him, others in places miles away from the spot where he found his physical body upon awakening: furthermore, in his dreams, he conversed with persons unknown to him; with others separated from him by great distances, and sometimes even with the dead. One inference, and one only, was open to him, namely, that during sleep his spiritual double left his body and actually experienced all these adventures, and

this inference was apparently verified by his imaginary encounters with ghosts, and by his familiarity with the admonitions of that inner entity which we call conscience.

From inferences such as these arose the primitive belief in a multiplicity of spirits in flood and storm, forest and mountain, fire and the elements, garments and implements, and even in food and drink. Some of the spirits were regarded as hostile, others as benevolent, hence, in the words of Frazer, primitive religion came to consist of "a propitiation or conciliation of powers superior to man which are believed to direct and control the course of nature and of human life." [1] Gradually, however, man began to realize that different phemonena which had at first been considered unconnected could be grouped together, and so crude animism slowly developed into polydæmonism, and this in turn into polytheism, which at a later stage evolved into monotheism.

The influence of such religious beliefs in all stages of development has been profound, and has induced man from time immemorial to consult his animistic or ancestral spirits, his gods or God, about every important undertaking in his life. As an example of this, Turner informs us that, in Hudson's Island, "hardly anything could be done without first making it known to the gods and begging a blessing, protection, or whatever the case might require," [2] while Westermarck remarks, "It was natural that a religious character should be given to nuptials, as well as to other events of importance." [3] Moreover, as man in the early stages of civilization was at a loss to explain the origin of many customs, he found a ready solution in the theory that they were instituted by the gods who revealed them to national kings or heroes—either actual or mythical—in much the same way as Yahweh was reputed to have revealed the Law to Moses. Consequently marriage, on account of its antiquity and importance, came to be almost universally regarded as a divine institution, hence, at some time or other in practically

[1] Frazer, *The Golden Bough*, vol. i., p. 222.
[2] Turner, G., *Samoa*, p. 290. [3] Westermarck, *loc. cit.*, p. 421.

every part of the earth, a divine blessing, or the benediction of ancestral spirits or of the gods, has been sought at the celebration of a wedding. A few instances will serve to indicate this.

Among the Dyaks, it is the custom for one of the oldest men to smear the hands of the bride and bridegroom with the blood of a pig and a fowl; to implore the protection of the male spirit, Baak, and the female spirit, Hiroeh Bakak, and to recommend the couple to their care, and wish them every earthly blessing.[1] Among the Gonds, sacrifice to the gods and a great feast are the outstanding features at all nuptials; [2] the Macatecas, we are informed by Heriot, "fasted, prayed, and sacrificed to their gods for the space of twenty days after their marriage," [3] while it is customary among the Igorrotes for the priestess who performs the marriage ceremony to pray to the spirits of the deceased in the presence of the kinsfolk of the couple. Similarly, in China, the bridal pair are conducted to the ancestral hall, where they prostrate themselves before the ancestral tablets and invoke the blessing of the spirits resident therein. In ancient Greece, marriages were generally solemnized before the altars of the gods,[4] while in the patrician form of marriage in ancient Rome the ceremony was conducted by the chief pontiff and flamen of Jupiter, a sacrifice—the *libum farreum*—was made to the gods, and the couple were united with prayer.[5]

Magic, however, as already pointed out, for a long time continued to exist side by side with religion, hence, in addition to the prayers, sacrifices and libations made at the actual nuptials, ceremonies were performed which attempted to discover beforehand if the will of the gods was favourable or otherwise. In Siam, for example, a fortune-teller is always consulted to discover if the birth dates of the prospective couple are auspicious.[6] Similar auguries are sought among the Chinese, Hindus, and

[1] Bock, C., *The Head-Hunters of Borneo*, p. 222.
[2] Forsyth, J., *The Highlands of Central India*, p. 150.
[3] Heriot, *loc. cit.*, p. 334. [4] Westermarck, *loc. cit.*, p. 426.
[5] Rossbach, A., *Untersuchungen über die römische Ehe*, p. 111.
[6] Bock, C., *Temples and Elephants*, p. 183.

other races, and many a match is abruptly broken off or nipped in the bud in the absence of favourable signs, and even many modern Europeans still retain superstitions relative to certain actions considered to be lucky on a wedding day.

In modern days, the growth of science and rationalism has largely discredited most of the assumptions of primitive magic and religion, and in consequence the critical European, who no longer regards the Bible as an infallible text-book, is inclined to deny the ecclesiastical dictum that "marriage was instituted by God," and to resent the power and influence of organized religion in shaping matrimonial laws and conceptions. While it may be conceded, however, that modern science has discredited the story of Adam and Eve and the Garden of Eden, and while it is indubitably true that some of the ecclesiastical ideas about marriage are both immoral and irrational, and that clerical influence in shaping or arresting the evolution of the marital relationship has frequently been pernicious and reactionary, it by no means follows that the Christian assumption that marriage is a divine institution is fictitious.

It is, of course, possible for a man to deny the existence of God—though materialism is a very barren hypothesis compared with theism—but unless he is prepared to do so it is as foolish to deny the existence of a Creator, merely because we now realize that the world was not made in six days as alleged in the Bible, as it is to deny the possibility of a divine purpose in marriage, simply because the story of Adam and Eve is discovered to be a myth. In point of fact, modern knowledge is distinctly favourable to the theistic hypothesis. Sexual dimorphism, for example, was not originally a reproductive necessity, nevertheless it developed and became more and more complex, and we now know that it served an evolutional end, namely, the development of variability. Similarly, the more or less prolonged association of the sexes in natural marriage was something more than a mere reproductive necessity, hence it is more reasonable to suppose that the development of sex and of marriage is consistent with some ultimate scheme or divine purpose than it is to assume that

man, with all his potentialities, is the mere chance by-product of a mechanical interplay of blind forces.

It may be argued, therefore, that marriage, like life itself, is a divine institution, but it would also seem that both are in the process of evolutional realization. Christianity, moreover, also declares that man was created in order that he might become the crown of creation and enter into the relationship of worthy and conscious sonship to the Creator All Father, but there can be no shadow of doubt that the vast majority of mankind has never yet entered into or proved worthy of its inheritance. Hence, when Christianity proclaims the divinity of the institution of marriage no sane man, save a rabid materialist, will quibble about the possible truth of the assertion; but when that same religion emphatically declares that the institution of matrimony was handed over to man in a perfect and ultimate form in the Garden of Eden, or some other mythical cradle of humanity, modern science must emphatically give it the lie.

In point of fact, the creation myths, upon which both the Jewish and Christian conceptions of marriage as a divine institution were based, are not peculiar to either of these religions, and originally involved implications directly contrary to those held by the Founder of Christianity and by modern Christians. Thus, if the first two chapters of Genesis be carefully examined, it will be found that they contain two separate and mutually contradictory accounts of the creation. "In the first chapter," writes Sir James Frazer, "we read how, on the fifth day of creation, God created the fishes and the birds, all the creatures that live in the water or in the air; and how on the sixth day he created all terrestrial animals, and last of all man, whom he fashioned in his own image, both male and female. From this narrative we infer that man was the last to be created of all living beings on earth, and incidentally we gather that the distinction of the sexes, which is characteristic of humanity, is shared also by the divinity. . . . But when we proceed to peruse the second chapter, it is somewhat disconcerting to come bolt on a totally different and, indeed, contradictory account of

the same momentous transaction. For here we learn with surprise that God created man first, the lower animals next, and woman last of all, fashioning her as a mere afterthought out of a rib which he abstracted from man in his sleep. The order of merit in the two narratives is clearly reversed. In the first narrative the deity begins with fishes and works steadily up through birds and beasts to man and woman. In the second narrative he begins with man and works downwards through the lower animals to woman, who apparently marks the nadir of the divine workmanship. And in this second version nothing at all is said about man and woman being made in the image of God. We are simply told that 'the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul.' Afterwards, to relieve the loneliness of man, who wandered without a living companion in the beautiful garden which had been created for him, God fashioned all the birds and beasts and brought them to man, apparently to amuse him and keep him company. Man looked at them and gave them all their names; but still he was not content with these playmates, so at last, as if in despair, God created woman out of an insignificant portion of the masculine frame, and introduced her to man to be his wife." [1]

The first of these two accounts is called the Priestly Document, and was composed by priestly writers during or after the Babylonian captivity; the second account is derived from what is called the Jehovistic Document, and is the more primitive, having been written several hundred years before the other—probably in the ninth or eighth century B.C.[2] In the primitive tradition marriage is regarded neither as a genuine partnership between two equal beings nor as an ideal human society, but woman is clearly depicted, as in the Indian religion, as a mere plaything of man. "The great Jehovistic artist," writes Frazer, "hardly attempts to hide his deep contempt for woman.

[1] Frazer, *Folk-Lore in the Old Testament*, vol. i., pp. 3, 4.

[2] Chapman, *An Introduction to the Pentateuch*, pp. 74-81; Ryle, *The Book of Genesis*, pp. 96 ff.; Jastrow, *Hebrew and Babylonian Traditions*, pp. 348 ff.

The lateness of her creation, and the irregular and undignified manner of it—made out of a piece of her lord and master, after all the lower animals had been created in a regular and decent manner—sufficiently mark the low opinion he held of her nature; and in the sequel his misogynism, as we may fairly call it, takes a still darker tinge, when he ascribes all the sorrows and misfortunes of the human race to the credulous folly and unbridled appetite of its first mother." [1] Incidentally, the famous verse, "Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they twain shall be one flesh," [2] in the opinion of Professor Letourneau "seems to indicate the violence of the love rather than monogamic and indissoluble marriage." [3]

The Jehovistic or Jahwistic (from Jahweh or Yahweh) tradition, moreover, is by no means peculiar to Jewish mythology, but is paralleled in its main characteristics by the myths of innumerable other primitive peoples, and may thus be regarded as archetypal or representative of a primitive phase of thought.[4] Yahweh, in the Jewish myth, is depicted as moulding man's body out of dust or clay and animating it by breathing into its mouth and nostrils, and variations of this same myth existed among the Babylonians, Egyptians, Greeks, Australian aborigines, Maoris, Tahitians, Melanesians, and innumerable other peoples.[5] The story of the creation of woman, moreover, is paralleled by the tradition current among the Bedel Tartars of Siberia, who believed that God first made man and

[1] Frazer, *loc. cit.*, vol. i., p. 5.

[2] Genesis, ch. ii., v. 24. [3] Letourneau, *loc. cit.*, p. 189.

[4] *Note*: The doctrine of the similar but independent development of cultures in widely separated areas, popularized by Sir Edward Tylor in *Primitive Culture*, has been severely shaken in recent years, and it is now considered that marked resemblances in traditions and customs are very largely due to the migrations of primitive cultures. *Cf.* Elliot Smith, G., *The Migrations of Early Culture*; Rivers, W. H. R., *History of Melanesian Society*; *Psychology and Ethnology*; Perry, W. J., *The Megalithic Culture of Indonesia*; Huntington, *The Pulse of Asia*; Petrie, *The Revolutions of Civilization*.

[5] Frazer, *Folk-Lore in the Old Testament*, vol. i., pp. 6 ff.

placed him alone on the earth, but that later the devil touched the man's breast while he was sleeping and so caused a bone to grow out from his ribs. This bone fell to the earth, grew in length, and became the first woman. Frazer, who relates the legend, adds, "These Tartars have deepened the cynicism of the writer in Genesis by giving the devil a hand in the creation of our common mother." [1]

The Adam and Eve myth, then, in its primitive form, embodied ideas and sentiments that are diametrically opposed to the modern Christian conception of matrimony. This is only to be expected, however, for every religious belief has been subjected to a process of growth and development, and men find it easier to re-interpret old myths—to hang their new ideas on old familiar pegs—than to create new ones. Thus, the being who was alleged to have created Adam and Eve was Yahweh, a territorial El—differing only in name from those Elim who were accepted as the tutelary deities of the other Semitic tribes—and was originally regarded as a sort of super-savage; a jealous, vindictive being, who revelled in bloodshed and sacrifices; ordered the massacre of countless thousands of helpless women and innocent children, and whose sole redeeming feature was summed up in the phrase "covenant-keeping." This same Yahweh, however, under the influence of the great prophets and the Founder of Christianity, came to be regarded as the one and only God, and as a loving All Father who desired nothing but good for His children and who was long-suffering and treated them with forebearance in the face of the most flagrant rebellion.

Jesus, who was most notably responsible for this later conception of God, was also largely responsible for an idealistic conception of matrimony. For reasons that will be discussed later, He apparently never entered into a free discourse on marriage, but His attendance at nuptials, His general attitude toward woman, His quotation of the primitive tradition of the institution of matrimony—when the Pharisees inveigled Him into a discussion on divorce—and His comments thereon, all indicate

[1] *Ibid.* vol. i., p. 11.

that His conception of marriage was immeasurably superior to that of the writer of the original creation myth. Woman, in the view of Jesus, was created to be a helpmeet for man; a worthy companion and partner; marriage was an ideal human society; each was to find in the other that which the individual lacked, and they were to be bound together by mental, spiritual, and emotional bonds that were so strong as to render a dissolution of the union an act of violence towards nature. Inferentially, such a union was to be a means to an end—the mental, moral, and spiritual development of the individual—and such as united in this way were declared to be fulfilling God's original purpose in the creation of life and in the institution of matrimony. In the opinion of Jesus, therefore, ideal marriage was indissoluble—the partners being so necessary to each other as figuratively to constitute them one flesh. Nor has a higher conception of marriage yet been formulated. The conception is evolutional as well as idealistic, for we saw that even among the animals natural marriage served a social end. True compatibility was thus emphasized, and St. Paul, elaborating this idea, implored Christians not to be "unequally yoked together with unbelievers," [1] and reminded them that in marriage "God hath called us to peace." [2]

St. Paul, however, was responsible for many conflicting ideas about marriage, although he generally confessed that his teachings were his own and not those of Jesus. Temperamentally he was inclined to celibacy—this is proved by the fact that the average Jew married at an early age, whereas Paul was still a bachelor though a fully grown man when he was converted to Christianity—and his natural contempt of marriage frequently induced him to urge celibacy and to teach that marriage was little more than a reproductive necessity and a concession to human frailty. At other times, however, his religious idealism drove him to the opposite extreme and inclined him to clothe marriage with the dignity of a sacrament. Thus, upon at least one occasion, he pronounced marriage to be mystical—a union

[1] 2 Cor., ch. vi., v. 14. [2] 1 Cor., ch. vii., v. 15.

symbolic of the relationship between Jesus and the Church—and his words "Τὸ μυστήριον τοῦτο μέγα ἐστίν," translated in the Vulgate, "*Sacramentum hoc magnum est*," and in the authorized version of the English Bible, "This is a great mystery," [1] were responsible for the rise and development of the mediæval dogma that marriage is a sacrament and therefore indissoluble.

We shall consider St. Paul's doctrines in greater detail in a later chapter, but in passing it will suffice to say that this particular view of matrimony is both unscientific and contrary to the convictions of the vast majority of enlightened persons. Judge B. Lindsey, for example, writes, "I am perfectly willing to regard marriage as a religious rite . . . all right conduct is religious. But the theological concept of marriage, as a thing registered in Heaven, where they don't have the institution themselves by the way, is something else again. We've got to get rid of it with all speed." [2] What Judge Lindsey and most enlightened people object to is the theological conception that legal marriage and love are necessarily synonymous. That this is the official ecclesiastical doctrine is unquestionable, since Archdeacon Watkins points out that copula and mutual consent alone constitute complete and indissoluble Christian marriage, owing to the fact that, "the influence of the Roman civil law upon the canonists of the middle ages amounted to an ever-present tyranny, the old maxim of the civil law, *Nuptias non concubitus sed consensus facit*, being in full acceptance." [3] It is obvious, however, that ecclesiastical marriage involving mutual consent and copula can exist side by side with a complete absence of love, and it is indubitably true that in the minds of most enlightened modern people such a recognized union is rightly regarded as being far more inherently immoral than is a free union which, though both non-legal and non-ecclesiastical, is sanctified by love.

Such a discussion as this, however, must be postponed until later, and for the present we must content ourselves with merely

[1] Eph., ch. v., v. 32. [2] Lindsey, *loc. cit.*, p. 174.
[3] Watkins, O. D., *Holy Matrimony*, p. 124.

pointing out that the Church succeeded only in forcing her conceptions of ecclesiastical matrimony upon the peoples of Europe by the ruthless use of the power and weapons at her disposal; that the dogma of sacramental marriage was not fully recognized until the twelfth century,[1] and that marriages which had not received ecclesiastical benediction continued to be considered valid until the year 1563.[2] But although the Church eventually triumphed her victory was comparatively short-lived, and this despite the fact that Protestantism continued to patronise the widespread practice of sacerdotal nuptials, and most Protestant Churches still continue to exercise a reactionary influence upon all attempts at reform. The ecclesiastical victory of 1563, in brief, was more than offset by the lay victory of September 3, 1791, when the French revolutionists, in the seventh article of their new constitution, declared, "*La loi ne considère le mariage que comme contrat civil. Le pouvoir législatif établira pour tous les habitants, sans distinction, le mode par lequel les naissances, mariages et décés seront constatés et il désignera les officiers publics que en recevront les actes.*" It needs only to be added that, during the last century, civil marriage has become more or less recognized in practically every European country.

[1] Scheurl, A. von, *Das gemeine deutsche Eherecht*, p. 15.

[2] At the Council of Trent.

VIII

THE DEVELOPMENT OF IDEAS CONCERNING CELIBACY AND ADULTERY

Certain ideas concerning celibacy and adultery have played a very important part in determining the laws and regulations which govern marriage as a religious and legal institution, and their retention still operates against reforms which are evolutionary long overdue. A brief examination of the origin and development of these ideas, therefore, will better enable us to appraise their true worth.

In a state of nature, celibacy or voluntary sexual abstinence is unknown. Marriage, in some form or other, is as universal among primitive and barbarous peoples as among the animals, and boys and girls among such peoples are invariably married as soon as possible after attaining puberty, and sometimes even before. A few examples will suffice.

Among the North American Indians, celibacy is so rare as to be practically non-existent. Thus Prescott writes of the Dacotahs, " I do not know of a bachelor among them. They have a little more respect for women and themselves, than to live a single life." [1] Adair reports that many Indian women regarded virginity and widowhood in much the same way as death.[2] Among the South African tribes, living in their own districts, the author never once encountered a spinster above the age of twenty; Bosman reports that very few negroes on the Gold Coast die single, unless they are very young,[3] while so universal is marriage among the Touaregs that they informed

[1] Prescott, in Schoolcraft, *loc. cit.*, vol. iii., p. 238.

[2] Adair, J., *The History of the American Indians*, p. 187.

[3] Bosman, W., in Pinkerton, *loc. cit.*, vol. xvi., p. 424.

Barth they could find no fault with him except that he lived in a state of celibacy, which to them was quite incomprehensible.[1] Of the Todas, Mr. Marshall writes: "No unmarried class exists. . . . Every man and every woman, every lad and every girl is somebody's husband or wife. . . . With the exception of a cripple girl, and of those women who, past the child-bearing age, were widows, I did not meet with a single instance of unmarried adult females." [2] Similar conditions prevail among the Burmese,[3] and the Hill Dyaks of Borneo.[4] Among the Sumatrans, celibacy is equally rare, and Mr. Marsden reports: "In the district under my charge are about eight thousand inhabitants, among whom I do not conceive it would be possible to find ten instances of men of the age of thirty years unmarried." [5] In Java, Mr. Crawford "never saw a woman of two-and-twenty that was not, or had not been, married," [6] while Mr Curr never heard of a girl of sixteen years of age among the Australian aborigines who had not been married.[7]

Not only is celibacy unknown among barbarous peoples, but bachelors and spinsters are invariably regarded with abhorrence. A single man among the Santals is "despised by both sexes, and is classed next to a thief, or a witch: they term the unhappy wretch 'No man.'" [8] A bachelor among the Bantus is allowed no voice in the matters of his kraal, and such a man among the Tupi tribes is not permitted to take part in their drinking feasts.[9] Among the Fijians, it was believed that a man who died wifeless was stopped on the road to Paradise by the god Nangganangga and smashed to atoms.[10] In China the odium attached to a

[1] Barth, H., *Reisen*, vol. i., p. 489.
[2] Marshall, W., *A Phrenologist among the Todas*, pp. 220, 221.
[3] Fytche, A., *Burma Past and Present*, vol. ii., p. 69 n.
[4] Wallace, *The Malay Archipelago*, vol. i., p. 141.
[5] Marsden, W., *The History of Sumatra*, pp. 256, 257.
[6] Crawford, J., *History of the Indian Archipelago*, vol. i., p. 86.
[7] Curr, E. M., *The Australian Race*, vol. i., p. 110.
[8] Man, E. G., *Sonthalia and the Sonthals*, p. 101.
[9] Southey, R., *History of Brazil*, vol. i., p. 240.
[10] Pritchard, W. T., *Polynesian Reminiscence*, pp. 368, 372.

spinster is so great that single girls are often married to the dead, while others commit suicide. In Corea, according to the Rev. Ross, "The male human being who is unmarried is never called a 'man,' whatever his age, but goes by the name of 'yatow'; a name given by the Chinese to unmarriageable young girls: and the 'man' of thirteen or fourteen has a perfect right to strike, abuse, order about the 'yatow' of thirty, who dares not as much as open his lips to complain." [1] Similarly, the Jews have a proverb that "he who has no wife is no man" ;[2] marriage was regarded by them as a religious duty, and it was believed that he who lived single at the age of twenty was accursed by God almost as if he were a murderer.[3]

It is significant, however, that whereas among primitive and barbarous peoples celibacy is universally regarded with abhorrence, among certain peoples who have achieved a higher state of civilization we begin to find traces of an imputation of uncleanness attached to sexual relationships, and an element of esteem, instead of contempt, associated with the practice of celibacy. Thus, in ancient Mexico the Matazek bridegroom kept apart from his bride during the first fifteen days of his married life, both husband and wife spending the time in fasting and penance.[4] Again, in certain parts of Greenland, we are informed by Egede that couples who have a child within a year of their marriage are compared to dogs.[5] Fijian couples seem to be conscious that something in the nature of guilt attaches to copula, and although they do not deny their sexual impulses, the husband always approaches his wife by stealth—it being considered bad form for the husband and wife to sleep together.[6] A similar idea prevailed among the Tahitians who, although notoriously licentious, believed that if a man refrained from all

[1] Ross, J., *History of Corea*, p. 313.

[2] Andree, R., *Zur Volkskunde der Juden*, pp. 140 ff.

[3] Mayer, S., *Die Rechte der Israeliten*, p. 353.

[4] Bancroft, *loc. cit.*, vol. ii., p. 261.

[5] Egede, H., *A Description of Greenland*, p. 143 n.

[6] Seemann, B., *Mission to Viti*, p. 191.

sexual intercourse with women for a few months prior to his death he immediately passed to his eternal mansion without any preliminary purification.[1]

These ideas are even more marked among that section of a community dedicated to religion. For example, the priests in the Marquesas Islands were forbidden to marry,[2] as were also the wizards or medicine-men among some American Indian tribes,[3] the Patagonians,[4] and the ancient Mexicans.[5] In China, the law imposes celibacy upon both Buddhist and Taoist priests. Buddhist priests in India are vowed to celibacy, as also are Catholic priests throughout the world, while even a Jewish sect, the Essenes, were predominantly celibate. For similar reasons virginity is also esteemed. Thus, among the ancient Peruvians there existed an order of maidens, vowed to chastity, known as the Virgins of the Sun,[6] while certain maidens who were attached to the temples in ancient Mexico were bound to chastity for one year. Of these the pious Father Acosta writes: "The devil hath desired to be served by them that observe Virginitie, not that chastitie is pleasing to him, for he is an uncleane spirite, but for the desire he hath to take from the great God, as much as in him lieth, this glory to be served with cleanness and integrity." [7] Similar female religious orders also existed in the Old World. Thus, Justinus informs us that the Persian Sun priestesses, like the Roman vestals and certain Greek priestesses, were obliged to refrain from intercourse with men; [8] the nine priestesses attached to the oracle at Sena were vowed to perpetual chastity,[9] and very early in the history of Christianity orders of holy virgins, or nuns, were formed.

[1] Cook, J., *A Voyage to the Pacific Ocean*, vol. ii., p. 164.
[2] Waitz, *loc. cit.*, vol. vi., p. 387.
[3] Bancroft, *loc. cit.*, vol. i., p. 734.
[4] Falkner, T., *A Description of Patagonia*, p. 117.
[5] Waitz, *loc. cit.*, vol. iv., p. 152.
[6] Vega, G. de la, *Royal Commentaries of the Yncas*, vol. i., pp. 191 ff.
[7] Acosta, J. de, *Natural and Moral History of the Indies*, vol. ii., p. 333 ff.
[8] *Das Ausland* (1875), p. 303. [9] Westermarck, *loc. cit.*, p. 153.

It must not be assumed, however, that all these customs, merely because they seem to favour chastity, were originally practised in deference to the belief that sexual intercourse is inherently unclean or shameful. Thus, the conduct of the Matazek bridegroom, who was obliged to refrain from intercourse with his bride for a stipulated period after his marriage, is paralleled in innumerable parts of the world, and originally had nothing whatever to do with high ideals of chastity. A brief history of the practice in different countries will amply illustrate this.

The early Christian Church, at the fourth Council of Carthage, held in the year 398 A.D., enacted that "When the bridegroom and bride have received the benediction, let them remain that same night in a state of virginity out of reverence for the benediction."[1] This enactment was received into the canon law and was twice repeated in the decretals, writes Frazer, and by subsequent enactments the period of chastity was extended from one to two or three nights.[2] Later, "the clergy judged it expedient to mitigate the rigour of the canon, and accordingly they granted husbands the right of lying with their own wives on the first night of marriage, providing that they paid a moderate fee for the privilege to the proper ecclesiastical authority. This was the true *jus primae noctis*, a right accorded, not to a licentious feudal superior, but to a woman's lawful husband."[3]

It is assumed by many writers that the custom of refraining from sexual intercourse during the first few nights after marriage was founded by the Christian Church upon the story of Tobias in the *Book of Tobit*. "In point of fact," writes Frazer, "the practice of deferring the consummation of marriage for a certain time after the nuptial ceremony is older than Christianity, and has been observed by heathen tribes in many parts of the world; from which we may reasonably infer that,

[1] Migne, J. P., *Patrologia Latina*, lxxxiv. (Paris, 1850), col. 201.
[2] Frazer, *Folk-Lore in the Old Testament*, vol. i., p. 497.
[3] Frazer, *Folk-Lore in the Old Testament*, vol. i., p. 501.

far from instituting the rule and imposing it on the pagans, the Church on the contrary borrowed it from the heathen and sought to give it a scriptural sanction by appealing to the authority of the archangel Raphael." [1]

Thus, in the *Grihya-Sŭtras* of ancient India, a ritualistic code attributed to Apastamba reads, "Let him notice the day on which he brings his wife home. (From that day) through three nights they should both sleep on the ground, they should be chaste, and should avoid salt and pungent food." [2] Another code attributed to Gobhila enacts, "From that time through a period of three nights they should both avoid eating saline or pungent food, and they should sleep together on the ground without having conjugal intercourse." [3] Other codes of the Vedic age extend the period of chastity to six or twelve nights, and one even to a year. As an inducement to this last period of chastity an obedient couple are promised that a saint (*Rishi*) shall be born to them.[4] A period of post-nuptial chastity is still observed in several parts of India. Among the Kammas of Southern India, "consummation does not take place till three months after the marriage ceremony. . . . By the delay, the birth of the child should take place only in the second year." [5] Several other tribes in Southern India do not permit marriage to be consummated until the fourth day.[6] The Rajjhars of the Central Provinces insist upon a woman lying between the bride and bridegroom on their wedding night,[7] while in Baluchistan the bride, after the marriage ceremony, "often continues to share her bed with a kinswoman for three nights more; and when her husband eventually joins her, he is expected in some tribes to defer consummation for a considerable period." [8]

[1] Frazer, *Folk-Lore in the Old Testament*, vol. i., p. 505.

[2] Oldenberg, *The Grihya-Sutras* (trans.), pt. ii., p. 267 (*Sacred Books of the East*, vol. xxx.).

[3] *Ibid.* pt. ii., p. 48.

[4] *Ibid.* pt. i., p. 171.

[5] Thurston, E., *Castes and Tribes of Southern India*, vol. iii., p. 103.

[6] Iyer, A. K., *The Cochin Tribes and Castes*, vol. ii., pp. 139, 143, 192.

[7] Russell, R. V., *Tribes and Castes of the Cent. Prov. of India*, vol. iv., 417.

[8] Bray, D., *Census of India, 1911*, vol. iv., p. 113.

Again, among some of the wild tribes of Assam "the young couple are forbidden to come together until they have slept under the same roof at least three nights without intercourse."[1] Among the Aos, a Naga tribe of Assam, six men and six women sleep in the house of the newly wedded pair for six nights, the men sleeping with the bridegroom and the women with the bride. A similar practice prevails in Central Sumatra where, in many villages, a newly married couple are prevented from approaching each other for three nights by the watchful efforts of an old woman of the family.[2] In Achin, an old woman keeps watch over a newly married couple for seven days,[3] while in the Endeh district of Flores eight women sleep with the bride and bridegroom for the first four nights—two of the escort being required to keep awake and prevent the couple from approaching each other.[4] Among the Dyaks of Dutch Borneo, the bride spends the first night in the house of her mother or some other kinswomen; [5] in high families among the Macassars and Begineeze of Celebes, the bride is sometimes attended for a month by eight old women whose duty it is to prevent intimacy between the couple.[6]

The custom of deferring the consummation of marriage is even observed among some of the Australian tribes. Thus, in the Narrinyeri tribe, "the couple do not sleep close to each other for the first two or three nights; on the third or fourth night the man and his wife sleep together under the same rug." [7] Similarly, among some of the aboriginal tribes of Western Victoria a bride and bridegroom had to sleep on opposite sides of the fire for two months, and observance of this rule was ensured

[1] Hodson, T. C., in *Jour. Anthr. Inst.*, vol. xxxvi., p. 97.

[2] Hasselt, A. L. van, quoted by Frazer, *Folk-Lore in the New Testament*, vol. i., p. 508.

[3] Kruijt, J. A., quoted by Frazer, *loc. cit.*, p. 509.

[4] Roos, S., *vide* Frazer, *loc. cit.*, p. 510.

[5] Parelaer, T. H., *vide* Frazer, *loc. cit.*, p. 511.

[6] Matthes, B. F., *vide* Frazer, *loc. cit.*, p. 511.

[7] Taplin, G., in Curr, *The Australian Race*, vol. ii., p. 245.

by the attendance of a bridesman and bridesmaid who waited upon the couple both day and night.[1]

Similar customs are, or have been, observed in various parts of Africa and America. Thus, among the Baganda of Central Africa, a bride was accompanied to her husband's hut by a girl who slept with her for the first two nights, the bridegroom not being permitted to have intercourse with his bride until the third night,[2] while among the Wataveta, of British East Africa, the bride slept with four little bridesmaids for five nights, and consummation of the marriage was not allowed to take place until about a week after the bridegroom took possession of his wife.[3] Among the Musos and Colimas tribes of the American Indians, "if the matrimony happened to be consummated during the first three days, they looked upon the woman as lewd and wicked."[4] The Nootka Indians of Vancouver enjoined chastity on a newly married couple for ten days,[5] and some of the tribes of Alaska did not permit a marriage to be consummated for four weeks.[6]

"In these customs," writes Frazer, "it deserves to be noticed that men and women are often employed as attendants on the bride and bridegroom for the express purpose of preventing the speedy consummation of marriage. The frequency of the practice suggests that this may have been the original function of bridesmen and bridesmaids in Europe generally, as it still is among some of the South Slavs." [7]

Having established the fact that the custom of deferring the consummation of a marriage for a stipulated period, especially for three nights, is not only not peculiar to, but far older than Christianity, we may now conveniently examine the story of

[1] Dawson, J., *Australian Aborigines*, pp. 31 ff.

[2] Roscoe, J., *The Baganda*, pp. 90 ff.

[3] Hollis, C. J., in *Jour. of the African Soc.*, No. 1, pp. 115-117.

[4] Herrera, A. de, *Gen. Hist. of the Vast Continent and Islands of America*, (trans.), vol. vi., p. 184.

[5] Bancroft, H. H., *Native Races of the Pacific States*, vol. i., p. 198.

[6] Homberg, H. J., quoted by Frazer, *loc. cit.*, vol. i., p. 516.

[7] Frazer, *loc. cit.*, vol. i., p. 516.

Tobit upon which the Christian custom is alleged to have been founded.

Briefly, the story, which is related in the apocryphal *Book of Tobit*, is as follows. A certain Jewess of Ecbatana in Persia, named Sarah, had been married to seven successive husbands, all of whom had been slain out of spite and jealousy on their wedding night by a wicked demon named Asmodeus, who loved Sarah. The maiden was rich, but daunted by the fate of her seven previous husbands, no man for a long time came forward to offer himself as her eighth spouse. At length, her cousin Tobias presented himself, having first been informed by the archangel Raphael how he might outwit the demon and so escape the fate of his seven predecessors. These were the archangel's instructions. "When thou hast received thy wife and hast entered into the chamber, abstain from carnal intercourse with her for three days and give thyself up to nothing but prayer with her. On the first night, burn the heart and liver of the fish, and make a smoke with it, and the demon will be put to flight. On the second night thou wilt be admitted to communion with the holy patriarchs; on the third night thou wilt obtain the blessing that sons shall be begotten of thee safe and sound."[1] Tobias punctiliously obeyed these injunctions, thwarted the demon, lived to enjoy Sarah, and was blessed with issue.

"Curiously enough," writes Frazer, "the three nights of continence . . . are not so much as mentioned in most of the extant versions of the *Book of Tobit* . . . they appear only, so far as I am aware, in the Latin of the Vulgate and in a Hebrew version, which agrees closely with the Vulgate and may perhaps represent the original text from which the Vulgate was derived through the medium of an Aramaic translation. For Jerome, the author of the Vulgate, tells us that he translated the book from a Chaldee, that is an Aramaic, text with the help of a man who was a master both of Aramaic and of Hebrew. . . . Now in the Greek version the demon Asmodeus is overcome and put to

[1] *Book of Tobit* (Vulgate version), ch. vi., vv. 1-8.

flight, not by the continence of the newly wedded pair, but simply by the smell of the fish's liver. . . . Whether the interpolation was found in the Aramaic text from which Jerome made his Latin translation; whether it was inserted by Jerome himself or by the Jew whom he employed as interpreter; or, finally, whether it has been introduced into the Vulgate at some later date, are questions which apparently we have no means of definitely deciding. . . . But Jew or Christian, his motive for making this addition to the story seems clearly to have been the practical one of recommending chastity as the best prelude to married life; and the same motive probably led the Church to dwell on the three 'Tobias nights' as the model to which all virtuous and God-fearing couples should conform their behaviour at marriage." [1]

Frazer is of the opinion, however, that the real motive of the deferred consummation of matrimony can be detected in this Vulgate version of the story of Tobias. "The inference suggested by the narrative," he writes, "is that by this abstinence Tobias left the field open to his spiritual rival, who, after enjoying the bride undisturbed for three nights, was content to pass her on to her lawful husband for the term of his natural life. The temporary restraint which the bridegroom imposed on his passion was, in short, an accommodation, not with heaven but with hell, in virtue of which the demon lover resigned his cast-off mistress to the arms of her human spouse." [2] Should this idea of sexual intercourse with a demon seem fantastic, the reader need only be reminded that during the Middle Ages countless hundreds of men and women were executed by the Church on the sole grounds that they were accused of having had sexual intercourse with Incubi and Succubi, male and female demons who were supposed to lure human beings from the path of chastity by virtue of their more than human charms.[3]

The idea that a newly married couple is menaced by demons

[1] Frazer, *loc. cit.*, vol. i., pp. 517-519.

[2] *Ibid.* vol. i., pp. 519, 520.

[3] Lecky, *History of Rationalism in Europe*, vol. i.

is very widespread. In some parts of China fire-crackers are discharged during the wedding festivities, and a Chinese friend informed the author that the object of this custom was to scare away demons. In some parts of Java it is customary to place two painted wooden figures at the foot of the "family nuptial couch." These figures are called Lorobonyhoyo, or the youth and the maiden, and are placed there to deceive the demon who hovers around the nuptial couch with a view to carrying off one of the happy pair.[1] Among the Javanese of Surakarta, after a newly married couple has been in the bridal chamber for about an hour, their friends enter with burning torches to scare away the demons.[2] Among persons of high rank in Southern Celebes, the bridegroom stains his insteps and also the nails of his hands and feet with a red juice as a charm against the envy of evil spirits.[3] A bridegroom, in some parts of the Punjab, takes an iron weapon with him when he enters the bridal chamber to drive away evil spirits,[4] while in Bombay a bridegroom, for the same reason, keeps a dagger in his hand day and night until the end of the marriage rites.[5] In Armenia, a newly married couple carry a closed clasp-knife and a locked door-lock as talismans against devils—they are also attended by a man armed with a sword.[6] In Morocco, guns are fired at marriage festivals to scare away the jinns, and the bridegroom also carries a weapon,[7] while at weddings in Normandy a whip is cracked when the bridegroom joins the bride in the marriage chamber.[8]

"The precautions against spirits at marriage," writes Frazer, "are peculiarly stringent whenever one of the couple happens to be a widow or a widower, because in that case the usual demons

[1] d'Almeida, W. B., *Life in Java*, vol. ii., pp. 160 ff.

[2] Winter, C. F., quoted by Frazer, *loc. cit.*, p. 521.

[3] Matthes, B. F., *vide* Frazer, *Id. Ibid.*

[4] Das, Maya, in *Punjab Notes and Queries*, vol. i., p. 98.

[5] Munshi, in *Punjab Notes and Queries*, vol. i., p. 125.

[6] Abeghian, M., *Der armenische Volksglaube*, p. 91.

[7] Westermarck, *Marriage Ceremonies in Morocco*, pp. 122 ff.

[8] Nore, A. de, *Coutumes, Mythes, et Traditions des Provinces de France*, p. 240.

are powerfully reinforced by the jealous ghost of the deceased husband or wife. . . . Common prudence suggests the desirability of averting the threatened danger by appeasing the anger of the injured ghost, eluding his inconvenient attentions, or forcibly driving him away." [1] Frazer gives examples of a number of such customs practised in accordance with the belief that the ghost of a deceased wife or husband is capable of jealousy and of avenging himself. Upon reflection, moreover, the reader will realize that these beliefs are no more strange than is the Chinese belief that an ancestor takes a posthumous interest in the fortunes of his family, or the Bantu belief that the spirit of a deceased *induna* still presides over the destinies of his old kraal.

Dealing with cannibalism among the South Sea Islanders, the late R. L. Stevenson wrote that, " When the living ate the dead, horrified nocturnal imagination drew the shocking inference that the dead (*i.e.* their spirits) might eat the living "; [2] while Mr. Hesketh Prichard writes of the Vaudoux cannibals of Hayti that, " The man wishing to propitiate his god, offers him that which he himself most prizes." [3] These ideas also apply to the belief that sexual intercourse is desired by both spiritual beings and the ghosts of the deceased, for primitive man naturally supposed that human desires survived bodily death and that a disembodied spirit could be offered nothing better than that which the living most prized.

It will now be seen that by no means all of the customs which seem to imply a respect for chastity owe their origin to the attachment of a notion of impurity to sexual intercourse. It is unquestionable, however, that many of them do, and we shall now endeavour to discover the origin and development of these ideas.

Professor Westermarck is of the opinion that the notion of impurity is intimately connected with the instinctive feeling

[1] Frazer, *loc. cit.*, p. 523.

[2] Stevenson, R. L., *In the South Seas*, p. 192.

[3] Prichard, H., *Where Black Rules White*, p. 107.

against incest. "Sexual love," he writes, "is entirely banished from the sphere of domestic life, and it is reasonable to suppose, therefore, that when it appears in other relations, an association of ideas attaches a notion of impurity to the desire." [1] For ourselves, however, we do not feel that this solution adequately meets the case. It completely fails to explain, for example, the absence of any such sense of impurity among the vast majority of primitive peoples who, while regarding incest with abhorrence, look upon celibacy and virginity as unnatural and almost criminal. Indeed, it is very doubtful if any one notion or instinct has been responsible for this comparatively modern idea of the shamefulness of sexual intercourse, and we are strongly of the opinion that it is compounded of a manifold of more or less distinct feelings and reticences, which we will now consider.

The feeling of shame is, to a very great extent, a concomitant of self-consciousness. The habit of decorating or covering the body, as already indicated, did not arise from any feeling of shame, but when once dress became customary shame would naturally be associated with nudity because the individual who broke the current convention at once became ultra-conspicuous and self-conscious. This is illustrated by the case of the Brazilian woman met by Wallace—previously quoted—who, when she put on her *saia*, seemed to become as ashamed of herself as would a European woman who appeared disrobed in public. Conspicuousness and self-consciousness alone accounted for this, and one or two examples will illustrate the working of the same feelings in Europe.

In social games such as forfeits, postman's knock, kiss-in-the-ring, and so forth, normally reticent adults will embrace and kiss each other without experiencing any marked sense of self-consciousness, chiefly because everyone else is doing the same, yet it is highly probable that if any of these adults were surprised indulging in similar intimacies with a lover or spouse their embarrassment would be considerable. Similarly, most persons experience no embarrassment in participating in communal

[1] Westermarck, E., *The History of Human Marriage*, p. 156.

prayer in a crowded church, whereas they would be acutely self-conscious if surprised at their private devotions.

The sense of self-consciousness experienced in such cases is unquestionably more complex than is the comparatively simple sense of shame experienced by the native woman of Macura when wearing her *saia*, but is basically the same. The complexity of the former notion is due primarily to the introduction of the new ingredient—the development of the idea of the holy or sacred. Any really profound emotional experience carries with it a sense of reverend awe, so that the experience partakes of an almost sacramental character: hence the consciousness of communion with God experienced by a morally and mentally developed man is something intensely personal and holy, and, where highly developed affection exists, the same sense of sacredness and a desire for privacy is characteristic of the most intimate relationships between a man and his wife. These feelings, however, are the concomitants of high mental, spiritual, and emotional development—neither the higher animals nor very primitive peoples are self-conscious about rut or sexual intercourse—hence, in the lower stages of civilization, this connubial secrecy would first become apparent only in rare and unusually highly developed persons, and their contemporaries —not understanding the motives prompting these reticences— might easily attribute a lack of blatant demonstrativeness to either exceptional self-restraint or to a consciousness of something shameful attaching to the sexual act. Further, if such persons were powerful and stood high in public esteem, it is highly probable that their example would be ignorantly followed, and the idea would grow that copula, although undoubtedly pleasant and irresistible, was nevertheless shameful, and as such should be indulged in only in secret.

Another factor meriting consideration is the influence which must have been exerted by primitive magic and religion. Physiology and psychology were unknown to primitive peoples, hence the part played by copula in cementing the mental, spiritual, and emotional bonds between man and wife were

unsuspected. To primitive man, the act of copula was essentially an act of procreation—at least it was common experience that it was a prelude to procreation—and as anything to do with birth and life meant association with the most potent and dangerous forces known, it is highly probable that man came to regard acts of copula—other than those essential to reproductive needs—as something analogous to playing with fire. The physical weakness that follows sexual orgies would undoubtedly strengthen this view, and although man's sexual appetite would impel him to continue to play with fire, it would not prevent him from feeling that he was doing something which he ought not to do—something, in fact, that was shameful when divorced from reproductive necessity. This feeling would become even stronger when a god, or gods, took the place of impersonal or magical forces, since it would be assumed that the god ordained copula solely for reproductive ends, and that indulgence for mere self-gratification was therefore sinful. Incidentally, the author knows of several religious persons who still implicitly believe this. It is also possible that the intimate connection between the sexual and excretory organs may have contributed to the notion of the uncleanness of sexual intercourse.

Again, it must have been discovered at an early date that a celibate, or a man who rarely indulged his sexual desires, frequently achieved more power—thanks chiefly to his undivided interests—than did his fellows. That this was appreciated by savage peoples is proved by the fact that the Zulu warrior despot, Chalka, refused to permit married warriors to serve in his favourite crack regiments, on the ground that their attachment to their wives and children rendered them less reckless of their lives. Similar ideas still persist in highly civilized societies. Thus, the author remembers hearing the colonel of his regiment declare that married subalterns were as useless as sick headaches, since they were invariably at home dancing attendance upon their wives when they should have been in barracks familiarizing themselves with regimental routine. In much the same way he has heard married junior

masters accused of " cutting games " in deference to home ties, while, in the commercial world, married juniors are frequently supposed to dislike putting in overtime for the same reason.

In the devotional world, St. Paul expresses the same sentiment. " He that is unmarried careth for the things that belong to the Lord, how he may please the Lord: But he that is married careth for the things that are of the world, how he may please his wife." [1] As already indicated, Paul was temperamentally inclined to celibacy, and we feel that, had he been a modern layman, he would never have entertained the idea of marrying until he became a general, a cabinet minister, or the chairman of a board of directors. Thus, in the words of Kipling, the theory runs:

> " Down to Gehenna or up to the Throne,
> He travels the fastest who travels alone."

Overwhelming personal ambition, in brief, can only achieve its end when it is prepared to sacrifice all else to a single dominant interest. Such singleness of purpose undoubtedly carries with it many disabilities—Darwin, at the end of his life, always regretted that his complete devotion to science had destroyed his early enjoyment of poetry and music—but the penalties are often known only to the individual, whereas material success is visible to all and sundry. Hence when such success appears to be due to the suppression of sexual desires—which in normal healthy people are often as clamant as the cravings of hunger——there is a disposition to regard the successful individual as a sort of super-man, and to assume that the sexual indulgences of the ordinary citizen are symptomatic of his inferiority; and inferiority is always regarded as somewhat shameful.

It must be remembered, too, that the unsatisfied cravings of sex among young and highly civilized people frequently produce such profound disturbances in their lives as to cause sex to be regarded with abhorrence. Innumerable healthy and intelligent young men and women start out in life full of zest, high

[1] 1 Cor., ch. vii., vv. 32, 33.

aspirations, and glorious intentions. Adolescence has been a period of wonderful day-dreaming; life has opened up to them as being full of stupendous possibilities; the idealism of youth urges them to seek only the highest, and they eagerly set out, like Sir Galahad of old in quest of the Holy Grail, zealously seeking Truth and Beauty, and determined to leave the world a better place than they found it. Yet hardly have they started on their way before they are aware of an internal conflict. Sex, either consciously or subconsciously, looms up before them, luring them with its mystery and glamour, dimming their vision, confronting them with humiliations, and dissipating their energy. "My impression," writes Mr. H. G. Wells, "is that abstinence involves so large an amount of internal conflict, so urgent and continuous an effort of self-control, such moods and humiliations and compensatory adjustments, that the diversion of attention and the wastage of energy are far greater than the average disturbances and deflections of a normal life."[1] Youth, however, does not realize this: marriage in early youth is financially impossible, and, owing to the urgency of mental and spiritual aspirations, rarely desired; hence it is small wonder that the eager novitiates of life frequently loathe the thing that distracts them, passionately wish they had been born with the emotions of fishes, and, in their youthful arrogance, declare that the Creator bungled His work badly, and that, had they been in His place, they would have created men and women without troubling them with such devastating passions, and would have ensured propagation by some non-disturbing vegetal process.

The revolt is born of repression, and is essentially due to the fact that Youth is in a transitional stage, and has not yet learned to adapt itself to its environment. Most of us have passed through some such phase, and it has driven countless thousands of eager and spiritually inclined young men and women into monasteries and convents. It was undoubtedly partly responsible for the laudation of celibacy in the fourth and subsequent

[1] Wells, H. G., *The World of William Clissold*, p. 759.

centuries, for it was a favourite opinion among the early Christian Fathers that, if Adam had remained obedient and preserved his virgin purity, some harmless mode of vegetation would have peopled Paradise with a race of innocent and immortal beings.[1]

As it was, the Fathers, and St. Paul before them, abhorred sex and lauded celibacy and virginity. True, St. Paul admitted the benefit of marriage in cases of dire necessity, and was probably impelled to do so because Jesus had never condemned the institution; but one feels that, great as was his love for his Master, he did not see eye to eye with Him in this matter. Thus, speaking under compulsion, he writes, "He that giveth her (his virgin) in marriage doeth well"; but speaking for himself, he adds, "but he that giveth her not in marriage doeth better."[2] Similarly, "It is good for a man not to touch a woman. Nevertheless, to avoid fornication, let every man have his own wife, and let every woman have her own husband. . . . I speak this by permission, and not of commandment. For I would that all men were even as I myself. . . . I say therefore to the unmarried and widows, It is good for them if they abide even as I. But if they cannot contain, let them marry: for it is better to marry than to burn."[3]

Strong as were the opinions of St. Paul, they were comparatively mild to those expressed by the early Fathers of the Church. Origen declared marriage profane and impure and, with a view to making himself a literal eunuch for the Kingdom of Heaven's sake, mutilated himself at an early age: Tertullian declared that celibacy must be chosen, even if mankind should perish, and St. Augustine said that unmarried children would shine in heaven as beaming stars, whilst their parents would look like dim ones.[4] St. Jerome maintained that although marriage fills the earth, it is virginity that replenishes heaven,[5] while St. Chrysostom,

[1] Gibbon, E., *Decline and Fall of the Roman Empire*, vol. i., pp. 318 ff.

[2] 1 Cor., ch. vii., v. 38. [3] *Ibid.* ch. vii., vv. 1-2, 6-9.

[4] Mayer, S., *Die Rechte der Israeliten, Athener und Romer*, vol. ii., pp. 289 ff.

[5] Draper, J. W., *History of the Intellectual Development of Europe*, vol. i., p. 415.

hating women as primarily responsible for luring men into marriage and sexual indulgence, declared the fair sex to be "a necessary evil, a natural temptation, a desirable calamity, a domestic peril, a deadly fascination, and a painted ill." [1]

These views were partly due to those factors contributing to the notion of sexual uncleanness which we have considered, but other factors peculiar to Christianity undoubtedly added to the intensity of the feeling. The man with a mission loathes that which seems to thwart his purpose even more than does the man who is merely following the dictates of personal ambition, particularly if the mission appears to be one of extreme urgency and of divine origin. And the Christian mission, in the early days, possessed both these characteristics. Jesus, in common with His Jewish contemporaries, believed that the existing order of the universe would be shortly brought to an end by a sudden catastrophic act of divine intervention, and that this act would be accompanied by the appearance of the Messiah, or Son of man, the Judgment, and the inauguration of the New Age, or the Kingdom of God.[2] He believed, especially at the commencement of His career, that these events were imminent, for when He despatched His disciples on their missionary journey He urged the necessity of haste, and declared, "Verily I say unto you, Ye shall not have gone over the cities of Israel, till the Son of man be come." [3] In the later part of His career, when circumstances and reflection led Him to identify Himself with the promised Messiah, He necessarily believed the dissolution of the existing order of things to be even more imminent, and showed considerable impatience with those who, not realizing the shortness of the days, wished to postpone following Him until after they had bidden farewell to their friends, or had buried a father.[4]

[1] Lecky, W. E. H., *History of Rationalism.*

[2] Scott, *The Kingdom and the Messiah*; Streeter, "The Historic Christ," in *Foundations*; Schweitzer, *Quest of the Historical Jesus*; etc.

[3] Matthew, ch. x., v. 23. (*Note.*—It is apparent that up to this period Jesus had not yet identified Himself with the Son of man.)

[4] Mark, ch. ix., v. 59.

The celibacy of Jesus, then, was primarily due to His self-dedication to a supreme mission, and also to His belief that marriage and temporal affairs were of secondary importance in view of the immediately impending dissolution of society. Furthermore, having identified the Messiah with the Suffering Servant of Isaiah, He believed that His own suffering would precipitate the world crisis, and that, translated by His death into the full Messiahship of the super-natural Son of man, He would shortly return to earth in power to usher in the New Age.[1] This belief survived His death, and St. Paul and the early Fathers, being convinced that the Second Advent and the destruction of the existing order might take place at any moment, not only regarded matrimony as of secondary importance, but even condemned it on the ground that it distracted men's attention from spiritual matters and rendered them less eager to repudiate the pleasures of a doomed world.

Fuel was also added to the fire of ecclesiastical dislike of sexual relationships by the fact that, with the development of the theory of Original Sin, sex came to be regarded as the great transmitter of evil. Incidentally, sexual laxity was very conspicuous in the Greco-Roman world and, as the heathen were regarded as the allies of the Devil and were guilty of crude sexual excesses, it was natural that their most conspicuous vice came to be regarded as a proof of the impurity of copula. The result was, as Lecky points out, that chastity came to be regarded as involving " the absolute suppression of the whole sensual side of our nature," while " the chief form of virtue " was held to be " a perpetual struggle against all carnal impulses, by men who refused altogether the compromise of marriage." [2]

There remains yet one final point which merits consideration. Judge B. Lindsey has written a very admirable book on the Revolt of Modern Youth, but the subject with which he deals is no new thing, but merely the present phase of a conflict which

[1] Mark, ch. xiv., vv. 61, 62.

[2] Lecky, *History of European Morals*, vol. ii., p. 122; also Milman, *History of Latin Christianity*, vol. i., p. 152.

is as old as humanity itself—the never-ceasing conflict between Youth and Age. Youth, from time immemorial, has been hedged about by repressions, enforced by the aged—by men and women well past the prime of life. Some of these repressions are genuinely actuated by altruistic motives, but it is indisputable that an even larger number are actuated by rancorous jealousy. Very few, if any, persons of mature age admit the truth of this accusation, nor do they even believe it themselves. On the contrary they rationalize their regulations; show that they were actuated by the very best of intentions, and maintain that the safety of society depends upon the curbing of the headstrong wilfulness and adventurousness and inexperience of Youth by the wider experience and tolerance of Age.

In point of fact, however, the intolerance of Age is almost invariably greater than that of Youth, and both are doubtless due, at least in part, to resentment and jealousy of each other. But this resentment and jealousy takes the form of a buried complex which, in the language of modern psychology, disguises and rationalizes itself in order to gain admittance to the conscious part of the individual's mind. But psycho-analysis can usually unearth the true motive of such complexes. Thus, as Professor Nunn points out, " an epidemic of breakages in the kitchen may symbolize the maid-servant's antipathy to a scolding mistress. The virtuous maid may be unaware of the depth of her resentment, and may seek, quite honestly, to ' rationalize ' the ' accidents ' by attributing them in good faith to the coldness of her hands or the hotness of the water, or by invoking some other plausible excuse." [1]

Part of the origin of the jealousy of Youth and Age is not difficult to discover. In a state of nature, might is right, and the male animal is extraordinary tenacious of his rights, fiercely jealous of rivals and, as long as he retains the power, visits cruel and summary vengeance upon any youngster rash enough to rebel against his authority. Thus, innumerable field naturalists have pointed out that among highly gregarious animals the old

[1] Nunn, T. P., *Education, Its Data and First Principles*, p. 50.

male leader of the pack or herd will suffer no rivals, monopolizes the majority of the females, and drives away or even kills any vigorous young male of the pack that ventures to approach them.

In the early days of human gregariousness the old man of the horde, or primitive social unit, seems to have acted in very much the same way; indeed, he still does so among several very primitive surviving peoples. Thus, according to Dr. Malinowski, "In Australia old men secure the young females for themselves . . . and young men obtain for their wives some old repudiated wife of one of the old men." [1] This also applies to the Angas, among whom the old men invariably secure the youngest and most attractive girls, while the younger men have to content themselves with old and haggard women.[2] Similarly, we are informed that "in the tribes of King George Sound, the old men seem partly to monopolize the young females." [3] It may also be added that marriage by purchase did not materially alter this state of affairs, but if anything rather exaggerated it, and we have ourselves noted that in Africa, many parts of India, and elsewhere, the old men—who are invariably the most wealthy—monopolize the most attractive women.

In view of these facts, it is scarcely likely that the modern man of mature years has completely outgrown that spirit of selfishness and rancorous jealousy of youth which was the dominant characteristic of his human and animal forebears for countless thousands of years. On the contrary, it is far more reasonable to assume that these ancient sentiments still persist in the sub-conscious regions of man's mind, and that they still manifest themselves in disguised forms. Indeed, even cultured men who have passed their prime of life are still unquestionably jealous of youth, and we ourselves have seen mild and venerable professors go positively livid, and resort to personalities, sarcasm, and the most crushing apothegms when a brilliant young

[1] Malinowski, Dr. B., *The Family among the Australian Aborigines*, pp. 260-1.

[2] *Ibid.* p. 261. [3] *Ibid.* p. 202.

student has been rash enough to point out some weakness or fallacy in a worthy pedagogue's argument.

It is not often that we find ourselves in agreement with Mr. Ludovici, but it must be admitted that there is considerable truth in his contention that "old men, however much they may try to conceal or to misinterpret their secret emotions . . . are racked by the most acute jealousy of all junior males. But . . . as this jealousy may no longer manifest itself unsocially in deeds of violence, suppression, constraint, or in the appropriation of the comely virgin, it takes advantage of the sex-phobia of Christianity in order to express itself in every kind of puritanical restriction, whether legislative or merely conventional." [1]

But while this is partly true, it is scarcely the whole truth, for it is probable that the restrictions which the aged seek to impose upon sexual activity of the young by stigmatizing it as sinful and unclean are also partly due to the changed mental attitude which old age invariably brings. Old Age is notoriously conservative. "Now I know that in thus turning Conservative with years," wrote R. L. Stevenson, "I am going through the normal cycle of change. . . . I submit to this, as I would submit to gout or gray hair, as a concomitant of growing age or else of failing animal heat; but I do not acknowledge that it is necessarily a change for the better—I daresay it is deplorably for the worse. . . . Old people have faults of their own; they tend to become cowardly, niggardly, and suspicious . . . so, as we grow old, a sort of equable jog-trot of feeling is substituted for the violent ups and downs of passion and disgust; the same influence that restrains our hopes, quiets our apprehensions." [2]

It may be argued, then, that some of the opprobrium cast upon sex by the aged is partially due to conscious or unconscious jealousy, and partly to the fact that old people, having outlived their physical passions, assume that the change is for the better and that true wisdom lies in endeavouring to inculcate Youth

[1] Ludovici, A. M., *Man: An Indictment*, p. 301.

[2] Stevenson, R. L., *Virginibus Puerisque, and Other Papers*, pp. 88-9, 95-6.

with the prudence (*i.e.* lack of vitality) of Age. Christianity possibly furnished some plausible arguments in support of the conservative tendencies of Old Age, but the tendencies themselves are indubitably much older than Christianity.

Having made celibacy the cardinal Christian virtue, it was inevitable that the Mediæval Church should also make adultery the cardinal Christian vice, for, since even lawful sexual indulgence was regarded as reprehensible, it followed that unlawful indulgence plumbed the lowest depths of iniquity. This view, more than anything else, has been responsible for the cruelty and immorality of our existing Divorce Laws, and it was rendered all the more popular because adultery on the part of a woman was regarded in the lower stages of civilization as the one unforgivable crime.

Primitive man, particularly after the development of marriage by purchase, nearly everywhere regarded a wife as a form of property differing only in kind from his ox or his ass, hence Diderot remarks that "the tyranny of man has converted the possession of women into a property." [1] For this reason the appropriation of a woman without the sanction of her legal owner was looked upon as theft, and society has always been cruel to thieves. Thus, scarcely more than a century ago sheep-stealing was a capital offence in England, while during the last century in America a horse or cattle thief was shot or hanged at sight. Adultery, moreover, was regarded as a particularly heinous type of theft, for the fact that the property stolen was not passive but an accessory to the crime offered a bitter affront to the husband and goaded him into exacting the most terrible vengeance—even though he himself recognized no obligation to be faithful to his wife.

In Australia and Tasmania, husbands did not scruple about lending their wives, or bartering them, but "none the less chastised, and very cruelly too, unauthorized infidelities." [2] A

[1] Diderot, "Supplement au Voyage de Bouganville," in *Œuvres*, vol. ii., p. 245.

[2] Letourneau, *loc. cit.*, p. 209.

Hottentot husband would freely lend his wife to a stranger for a consideration, but would kill her if she gave herself to another without his sanction.[1] Among other peoples, however, a distinction was sometimes made between adultery with a principal and a lesser wife, the adulterer being punished by death in the first case, but being permitted to compound his offence by the payment of a fine in the second.

A few examples of typical punishments meted out to adulteresses and their paramours will serve to illustrate to what excesses outraged pride and lust for exclusive ownership have led men.

In Dahomey, up to the year 1713, a husband had the right to have an adulterous wife strangled or beheaded by the public executioner, and her accomplice burned at a slow fire.[2] In Uganda, King M'tesa caused adulterers to be dismembered, having one limb cut off at a time and thrown to the vultures, who feasted upon it before the eyes of the sufferers.[3] In New Zealand, a chief could kill an adulterous wife with his club,[4] and a similar law prevailed in Tahiti, where Cook saw an adulterous woman punished in this way.[5] Among the North American Indians, who often regarded an exchange of wives as a mark of friendship, the husband most frequently punished the adulterous wife by cutting open with his teeth her nose or ears,[6] while among the Omahas an adulteress was bound to a stake in the prairie, abused by twenty or thirty men, and then abandoned by her husband.[7]

Somewhat milder punishments exist among the Mongols. In China, a woman can be imprisoned for adultery and, in addition to repudiating her, the husband, or the judge to whom

[1] Alexander, *Expedition into the Interior of Africa*, vol. i., pp. 98, 173.

[2] Demeunier, *Mœurs des Différents Peuples*, p. 223.

[3] Speke, *Voyage to the Sources of the Nile*, p. 343.

[4] Marsden, in *Voyage of the "Astrolabe,"* p. 360.

[5] Letourneau, *loc. cit.*, p. 212.

[6] Bancroft, *Native Races*, etc., vol. i., p. 514.

[7] Dorsey, J. O., *Omaha Sociology*, p. 364.

she is remitted, may sell her.[1] In Japan, the law entitles a husband to kill a guilty pair if taken in adultery, and forbids him to spare either,[2] but in Tibet,[3] Java,[4] and Sarawak,[5] the adulterer usually escapes by paying a fine. In India, however, where it is an accepted principle that woman was created solely for the pleasure of man, the *Laws of Manu* laid it down that "If a woman, proud of her family and her importance, is unfaithful to her husband, the king shall have her devoured by dogs in a very frequented public place," [6] and that if the woman is of high rank "The king shall condemn her accomplice to be burned on a bed of red hot iron." [7]

Europeans, in the past, have been no more lenient towards adulterers and adulteresses than have the peoples of other parts of the world. In ancient Greece, the law of Solon permitted the husband to kill an adulterer; [8] yet authorized adultery, in certain circumstances, was not only permitted, but even encouraged. Both Solon and Lycurgus urged an impotent husband to favour the adultery of his young wife, and Plutarch, speaking of the laws of Lycurgus, says: "He . . . allowed that, if any one in years should have a young wife, he might introduce to her some handsome and worthy young man, whom he most approved, and when she had borne a child of this generous race, bring it up as his own. Also he permitted that if a man of character should possess a passion for a married woman upon account of her modesty and the beauty of her children, he might beg her husband that he might be allowed to plant, as it were, in rich and fertile soil, excellent children." [9] Plutarch also records the fact that Cimon of Athens, who was regarded as a model of

[1] Davis, *China*, vol. i., p. 322; Pauthier, *Chine Moderne*, p. 239.

[2] Maéda, M., "La Société japonaise," in *Revue Scientifique*, 1878.

[3] Turner, *Hist. Univ. des Voy.*, vol. xxxi., p. 347.

[4] Waitz, *loc. cit.*, vol. i., p. 315.

[5] Munday, *Journal of James Brook*, vol. ii., p. 2.

[6] *Laws of Manu*, ch. viii., v. 371. [7] *Laws of Manu*, ch. viii., v. 375.

[8] Plutarch, *Solon*, xliv. [9] Plutarch, *Lycurgus*, xxix.

goodness and greatness of soul, freely lent his wife to the rich Callias.[1]

In ancient Rome, the *flagante delicto* authorized a husband to kill an adulterous wife, and also permitted him to torture, mutilate, or *raffanise* the lover, or to hand him over to the ferocious lubricity of his slaves.[2] The ancient Saxons burned an adulterous wife alive, and hanged or strangled her accomplice on the extinct fire.[3] In Germany, and in England prior to the ordinances of King Canute, it was customary to shave the head of an adulteress, strip her to the waist, drag her from her husband's house in the presence of her relatives, and then whip her to death through the streets. Her lover was hanged on a convenient tree. King Canute suppressed these customs, and mercifully ordered that the woman should have her ears and her nose slit, and that the man should be banished.[4]

Gradually, however the legal penalty for adultery in Europe became entirely pecuniary. Thus, the fifth section of the Salic Law inflicted a fine of two hundred pence on anyone abducting a married woman,[5] while in the Middle Ages an adulteress was deprived of her dowry and shut up for life in a convent.[6] At the present time a husband can claim pecuniary compensation from his adulterous wife's lover by citing him as co-respondent in a divorce suit. The primitive right of executing summary vengeance upon an adulterous wife, moreover, is still occasionally exercised by a husband who not infrequently pleads "The Unwritten Law" in extenuation of his crime. Nor is the plea often unsuccessful. "Our conscience is still so impregnated with the morality of past ages," writes Letourneau, "that our public opinion and our juries willingly pardon a man who murders his adulterous wife, while they are full of mercy for the conjugal infidelities of this ferocious justiciary." [7]

Modern woman, in many cases, is no whit less vindictive

[1] Plutarch, *Life of Cimon.* [2] Letourneau, *loc. cit.*, pp. 223, 224.
[3] *Ibid.* p. 226.
[4] *Ibid.* p. 226. [5] *Ibid.* p. 226.
[6] *Ibid.* p. 226. [7] *Ibid.* p. 227.

than man, and makes the very most of such powers as are at her disposal. Thus, though she may have driven her spouse into infidelity through her frigidity, she often deliberately punishes him for the remainder of his life by obtaining a legal separation, refusing to free him, and by extorting, with the aid of the law, every penny she can, without making any sort of return whatever.

To sum up, then, it will be seen from our cursory outline of the history of adultery that the motives which actuated such brutal punishments were neither outraged love nor a high zeal for chastity. Marriage by purchase helped more than anything else to convert woman into a form of property, hence adultery came to be regarded as a particularly reprehensible form of theft. And just as man converted woman—during certain phases of social evolution, into a property—so also a wife, as soon as she received sufficient power, turned her husband into an exclusive property. Men and women, however, not only hated adultery as a form of theft, but also, and perhaps primarily, because it outraged their vanity and self-regard. The preference of a husband or wife for some other person argued their inferiority in the eyes of the one whom they considered ought most to revere them, and this was unforgiveable. The truism, "Hell knows no fury like a woman scorned," would be equally accurate if the word "person" were substituted for "woman," and it is the most unmitigated nonsense to claim that this "fury," which has been responsible for so much frightfulness, is the offspring of outraged love. The man who truly loves a woman will unhesitatingly surrender her to another if his sacrifice will be conducive to her greater happiness, and a woman who truly loves her husband will make a like sacrifice, but although this sentiment is somewhat rare at present it is unquestionably spreading and gaining strength.

Reactionary forces still operate, however, and their greatest stronghold at present is in organized religion. Thus, quite recently, the author heard a Church of England priest strongly defending the continuance of "The Unwritten Law"; Dean

Inge, who can scarcely be regarded as one of the least enlightened of our clerics, declared before the Royal Commission on Divorce, that "Adultery in either sex ought to be a misdemeanour punished by a term of imprisonment. . . . The convict's jacket is the proper equivalent for the white sheet of public penance"; [1] and the author knows at least one case of a Church member being refused the sacrament solely because he was cited as the co-respondent in a divorce suit. In point of fact, the bulk of the clergy are still so dominated by the mediæval superstition that the ruthless suppression of all carnal impulses constitutes the cardinal Christian virtue that they are almost prepared to forgive a man who commits every crime in the Decalogue providing only that he does not break the seventh injunction. The attitude, to say the least of it, is strange in the avowed disciples of Him who freely forgave the woman taken in adultery and who bade the accuser that was without sin to cast the first stone.

We are not here attempting to vindicate adultery, the morality of which will be discussed later, but it must be apparent to all save bigots and cretins that a temporary moral lapse in the face of great temptation is considerably less heinous than is, say, persistent selfishness or uncharitableness.

[1] *Royal Commission on Divorce and Matrimonial Causes, Minutes of Evidence*, vol. ii., p. 259.

IX

REPUDIATION, PRIMITIVE DIVORCE, AND TRIAL MARRIAGES

Universal indissoluble marriage may be an ideal, but it is unquestionably one that has never yet been realized, for the duration of marriage varies very considerably among different species, races, and individuals. As previously pointed out, many birds, but by no means all, pair for life, while lifelong unions are so exceptional among the mammals as to cause Dr. Brehm to declare that "genuine marriage can only be found among birds."[1] The same author also declares that the male and female of the vast majority of mammals rarely remain together for more than a single season.[2] Some species, however, mate for longer periods; the anthropoid apes, as we have seen, frequently remain together for several years, while human marriage varies in duration from a few days to a lifelong association.

As our earliest human ancestors were most closely akin to the anthropoid apes it is highly probable that very little difference existed in the duration of the natural marriages of the two species. We must assume, then, that primitive man paired for at least a single season, and that in many cases a genuine attachment developed between the male and female which ensured a continuation of the association as long as the pair retained health, bodily vigour, and sexual ardour. Many couples, however, undoubtedly changed partners with each rutting season, but it is highly improbable that any marked promiscuity took place even during these short and exciting periods. This

[1] Brehm, A. E., *Bird-Life*, p. 285.

[2] Brehm, *Thierleben*, vol. i., p. 33.

may be assumed on the ground that the ardour of the female during rut fully equals that of the male; indeed, according to the observations of Dr. Brehm, the females of many mammals are even more ardent than the males during this season.[1] As already pointed out, however, man's emancipation from primitive rut and the development of taboos prohibiting sexual intercourse during certain periods virtually imposed upon him the alternatives of exercising rigorous self-control or of resorting to a succession of monogamic unions or polygamy.

In the main, polygamy, by providing a plurality of wives, obviated the necessity of repudiating a wife on account of pregnancy, old age, or diminishing sexual ardour. In many instances, however, men were precluded by poverty from supporting more than one wife at a time, and in such cases the disadvantages of enforced monogamy were frequently circumvented by recourse to repudiation and a succession of wives. This very often occurred where the wife was regarded as little more than a mere labourer and household drudge, or where impaired health or old age rendered her retention economically unprofitable; but man's desire for change was also responsible for much callous desertion, and in many parts of the world barbarous man still changes his wife as frequently as his fancy dictates. A few instances will serve to illustrate this.

According to Cook, it was more frequent for a Tahitian to cast off his first wife, and to take a more youthful partner, than it was for him to live with two wives.[2] When an Aleut wife "ceases to possess attractions of value in the eyes of her proprietor, she is sent back to her friends," writes Bancroft.[3] In some parts of Malaya a man ruthlessly turns away his wife as soon as she becomes ugly from hard work and maternal cares; Dyak husbands, reports Mr. St. John, also "coolly dismiss their helpmates when too lazy or too weak to work, and select partners better qualified to undergo the toils of life."[4] Among the

[1] *Ibid.* pp. 370, 383. [2] Cook, *Voyage to the Pacific Ocean*, vol. ii., p. 157.
[3] Bancroft, *Native Races*, etc., vol. i., p. 92.
[4] St. John, in *Trans. Ethn. Soc.*, n.s., vol. ii., p. 237.

Sinhalese, writes Mr. Bailey, sickness is the most common reason why a husband repudiates his wife, adding that the heartless desertion of a sick wife is "the worst trait in the Kandyan character, and the cool and unconcerned manner in which they themselves allude to it, shows that it is as common as it is cruel." [1] The Malemoute Esquimaux drive their wives away at will; [2] as do also the Bushmans.[3] The Damara Hottentots do not hesitate to send away wives of whom they are tired,[4] and similar conditions prevail among scores of other savage peoples.

The tyranny of man, however, is by no means as great, even among barbarous peoples, as many sociologists and other writers would have us suppose. Liberty of choice in courtship and marriage is, as we have already pointed out, by no means the sole prerogative of the male—indeed there is a good deal of truth in Mr. Shaw's contention that it is invariably the female, and not the male, who takes the indirect initiative [5]—and among scores of savage and semi-civilized peoples the wife, no less than the husband, has the right to change her mind and to repudiate a partner of whom she has tired.

Among the Dyaks, says Mr. St. John, there are few middle-aged men who have not had several wives, and instances have been known of girls of seventeen and eighteen who have already lived with several husbands.[6] Among the Yendalines of Indo-China, it is rare for any woman to arrive at middle age without having a family by two or more husbands.[7] The Maldavians, according to Rosset, are so fond of changes that a man frequently marries and divorces the same woman three or four times in the course of his life.[8] Sinhalese men and women, writes Mr. Knox, "have frequently to marry four or five times before they

[1] Bailey, in *Trans. Ethn. Soc.*, n.s., vol. ii., p. 292.
[2] Bancroft, *loc. cit.*, vol. i., p. 81.
[3] Lichtenstein, *Travels in Southern Africa*, vol. ii., p. 48.
[4] Letourneau, *loc. cit.*, p. 229.
[5] Shaw, G. B., *Man and Superman*, Preface.
[6] St. John, *loc. cit.*, p. 237.
[7] Colquhoun, *Among the Shans*, p. 75.
[8] Rosset, in *Jour. Anthr. Inst.*, vol. xvi., p. 169.

can settle down contented." [1] Father Bourien reports of the Mantras of Malaya that it is not uncommon to meet individuals who have married forty or fifty times;[2] Burckhardt met Bedouins who had had more than fifty wives; [3] Mr. Lane knew many men in Egypt who had, in the course of two years, married as many as twenty, thirty, or more wives, and many comparatively young women who had been the wives of a dozen or more men successively; [4] while Reade reports that the Moors of the Sahara consider it " low " for a couple to live too long together, and that the leaders of fashion are those who have been oftenest divorced.[5]

The ease with which repudiation is accomplished among many primitive peoples facilitates such frequent changes. In Tonga, for example, a husband dismisses a wife by simply telling her that she may go; [6] some of the Aleuts used to exchange their wives for food and clothes; [7] a Chinook husband can repudiate his wife according to his caprice; [8] most Australian aborigines could drive a wife away at any time,[9] and a single word from a Caribean husband served to terminate the union.[10] In the Marquesas, husbands and wives parted of mutual accord,[11] as also in Hawaii.[12] In Tahiti, parts of New Guinea, and the Marianne Group, marriages were dissolved without ceremony and at the will of either party,[13] and the same custom prevailed among the Island Columbians.[14] If a Bonak wife leaves her husband, he can

[1] Quoted by Westermarck, *loc. cit.*, p. 519.
[2] Bourien, in *Trans. Ethn. Soc.*, n.s., vol. iii., p. 80.
[3] Klemm, *Cultur-Geschichte*, vol. iv., p. 150.
[4] Lane, *Manners and Customs of the Modern Egyptians*, vol. i., pp. 247, 251.
[5] Reade, W. Winwood, *Savage Africa*, p. 444.
[6] Martin, J., *An Account of the Natives of the Tonga Islands*, vol. ii., p. 173.
[7] Georgi, quoted by Westermarck, *loc. cit.*, p. 521.
[8] Bancroft, *loc. cit.*, vol. i., p. 241.
[9] Letourneau, *loc. cit.*, p. 228.
[10] *Ibid.* p. 232.
[11] Radiguet, M., *Derniers Sauvages*, p. 179.
[12] Letourneau, *loc. cit.*, p. 230.
[13] Ellis, *Polynesian Researches*, vol. i., p. 256; Westermarck, *loc. cit.*, p. 527.
[14] Bancroft, *loc. cit.*, vol. i., p. 277.

never reclaim her: [1] among the Garenganze, a wife "may leave her husband at any time, if she cares to do so." [2] Marriages among the Botocudos, writes Keane, "are all of a temporary nature, contracted without formalities of any sort, dissolved on the slightest pretext, or without any pretext, merely through love of change or caprice"; [3] while husbands and wives alike among the Indians of Gautemala [4] and the Moxos of South America [5] frequently part from each other from sheer caprice.

Among more complex societies, however, simple repudiation is extremely rare. This is undoubtedly due to the custom of purchasing wives, for where a wife has been purchased, her repudiation—unless the husband is somehow able to reclaim the purchase price—involves a considerable financial loss. Needless to say, a father is rarely prepared to refund the purchase price if he can humanly avoid it. Repudiation, therefore, partakes of the nature of a business dispute between husband and father-in-law—between purchaser and salesman—and as an amicable settlement is invariably difficult, and frequently impossible, the matter is usually submitted to the arbitration of the chief or elders of the tribe. Such a body naturally considers the claims of the father as well as those of the husband, and in common justice the father is rarely compelled to return the purchase price which he has received for his daughter unless the husband can attribute some very material fault or imperfection to the girl: in brief, the dismissal of a wife and a claim for the return of her purchase price gradually becomes subject to certain recognized rules and regulations, and simple repudiation develops into legal divorce.

For example, among the Santals and the Tipperahs, divorce is permissible only with the consent of the husband's clansmen, or a

[1] Schoolcraft, *loc. cit.*, vol. iv., pp. 223 ff.

[2] Arnot, F., *Garenganze*, p. 194.

[3] Keane, in *Jour. Anthr. Inst.*, vol. viii., p. 206.

[4] Bancroft, *loc. cit.*, vol. ii., p. 672.

[5] Orbigny, A. d', *L'homme Américain*, vol. ii., p. 672.

jury of village elders.[1] Among the Kukis, "if the woman has a son by her husband, the marriage is indissoluble";[2] among the Red Karens of Indo-China, if "there should be one child, the parents are not permitted to separate";[3] while the Australian tribes of Western Victoria refuse to permit divorce if the wife has children, and even in the case of a childless wife refuse to allow a husband to repudiate her until he has submitted his accusation to the chiefs of his own and his wife's tribes.[4]

The presence of children, however, prohibits divorce only among comparatively few peoples, and usually a wife, whether she be childless or not, can be divorced for the commission of specific crimes. Thus a woman's adultery is practically everywhere accepted as affording a complete justification for divorce, in fact it is usually the mildest penalty inflicted for this crime. Again, among many peoples—including the Bantus at one end of the scale and the Chinese at the other—sterility constitutes grounds for divorce; while many peoples permit divorce and the return of the purchase price for numerous lesser disabilities.

Broadly speaking, the development of marriage by purchase, although it tended to convert woman into a form of property, saved her from capricious repudiation; particularly where the price paid was fairly high. Thus, Mr. Casilis informs us that divorces are very frequent among the Basutos "where the price of the wife is of small value," but "where it is of considerable amount, the dissolution of marriage is attended with much difficulty";[5] and we have noticed that this is true of the Bantus and of several other peoples. Similar restrictions are placed upon capricious divorce among those peoples who have substituted marriage by dower for marriage by purchase, for where this custom exists the husband is compelled to return his wife's

[1] Hunter, *Rural Bengal*, vol. i., p. 208; Lewin, *Wild Races of South-Eastern India*, p. 210.

[2] Lewin, *loc. cit.*, p. 276.

[3] Colquhoun, *Among the Shans*, p. 64.

[4] Dawson, J., *Australian Aborigines*, p. 33.

[5] Casilis, E., *The Basutos*, p. 184.

dowry if he divorces her for reasons other than those recognized by society.

Even where marriage by purchase exists a woman does not always lose all rights, and in many cases can divorce her husband without it being necessary for her father to return her purchase price. Similarly, in cases of marriage by dower, a wife may leave her husband and claim back her dowry, or at least a part of it, should her spouse prove impotent, or incapable of supporting her, or guilty of some crime. Thus, among the smaller islands of the Indian Archipelago, a wife may divorce her husband if he is unfaithful, or ill-treats her, and for several other reasons.[1] Among the Shans, "should the husband take to drinking, or otherwise misconducting himself, the woman has the right to turn him adrift, and to retain all the goods and money of the partnership."[2] The desertion or absence of a husband for a period of three years entitles a wife, among the Ashantees, to remarry, and if the first husband subsequently returns the second marriage holds good, but the wife must return to the first husband his children, and as these have a financial value their return is regarded as a sort of compensation.[3] In Burma, the wife can demand a divorce if her husband ill-treats her or is incapable of supporting her; moreover, she is even entitled to leave him in the absence of any such offence providing all the property, excepting the clothes she wears, is left behind.[4]

Under the Chinese code a wife may be divorced for any of the following causes: barrenness, lasciviousness, inattention to parents-in-law, loquacity, thievishness, ill-temper, and inveterate infirmity, but divorce for any other reason was legally punished by eighty blows of the bamboo.[5] In practice, particularly in earlier times, considerable liberty was taken with the law. Thus a Chinese classic maintains that, "when a woman has any

[1] Reidel, quoted by Westermarck, *loc. cit.*, p. 527.

[2] Colquhoun, *Among the Shans*, p. 295.

[3] Bowdich, *Hist. Univ. des Voy.*, vol. xxviii., p. 425.

[4] Fytche, A., *Burma Past and Present*, vol. ii., p. 73.

[5] Medhurst, in *Trans. Roy. As. Soc. China Branch*, vol. iv., pp. 25 ff.

quality that is not good, it is but just and reasonable to turn her out of doors," and asserts that, " Among the ancients a wife was turned away if she allowed the house to be full of smoke, or if she frightened the dog with her disagreeable noise." [1] In point of fact, however, inquiries served to convince the author that divorce is very rare in China, and there can be but little doubt that this is due to the facts that a Chinese husband possesses considerable power over his wife; that she seldom, if ever, interferes with his liberty, and that he is entitled to indulge in several concubines. A Chinese wife is theoretically entitled to leave her husband with his consent, but if she attempts to leave him without his authority she may be punished by a hundred blows of the bamboo, and may be sold by her husband.[2] In Japan, a husband may divorce his wife for the same reasons as in China,[3] but Professor Rein informs us that the privilege is seldom used—probably for similar reasons.

In ancient India, the right of divorce was restricted to the husband, and it was practically left to his caprice. Thus, according to the *Laws of Manu*, " A wife given to intoxicating liquors, having bad morals, given to contradicting her husband, attacked with an incurable disease, as leprosy, or who has been spendthrift of his wealth, ought to be replaced by another. . . . A sterile wife ought to be replaced in the eighth year; the wife whose children are all dead, in the tenth year; the wife who only bears daughters, in the eleventh; the wife who speaks with bitterness, instantly." [4] As a counsel of perfection Manu enjoined, " For one whole year let a husband bear with the aversion of his wife; but after a year, if she continues to hate him, let him take what she possesses, only giving her enough to clothe and feed her, and let him cease to cohabit with her." [5]

[1] Navarette, in Awnsham and Churchill's *Collection of Voyages and Travels*, vol. i., p. 73.

[2] Pauthier, *Chine Moderne*, p. 239.

[3] Rein, J. J., *Japan : Travels and Researches* (trans.), pp. 424 ff.

[4] *Laws of Manu*, ch. ix., vv. 80, 81.

[5] *Laws of Manu*, ch. ix., v. 77.

Not only was a woman deprived of the right of divorce, but she was also required to venerate her husband even if he proved worthless, as witness the following injunction: "Although the conduct of her husband may be blameworthy, and he may give himself up to other amours and be devoid of good qualities, a virtuous woman ought constantly to revere him as a god." [1]

Divorce in Muhammadan countries is ostensibly governed by the regulations of the *Koran*, but Letourneau reminds us that "It is necessary to distinguish between the text of the *Koran* and practice, which has notably departed from it—sometimes for the better, sometimes for the worse." [2] According to the *Koran*, if the declaration of repudiation has been repeated three times the husband cannot take back the wife until she has been married to another and divorced by him.[3] The formulas of repudiation, moreover, are graduated. Thus, if a husband simply says to his wife "Go away," and if he only says it once or twice, he may retract his decision; should he say, "Thou art to me as one dead, or as the flesh of swine," he is permitted to take her back only after she has been married to and divorced by another; but if he uses the formula, "Let thy back be turned on me henceforth, like the back of my mother," then repudiation is final and absolute.[4] The wife, however, also possesses certain rights, and if repudiated from mere dislike the husband is required by law to return her dowry and to grant her a sufficient maintenance.[5] Again, if a woman happens to be suckling a child when she is divorced, the husband or, in default of him, his heir, must make special provision for her for the period of two years—the normal suckling time. Provision must also be made when a pregnant wife is divorced.[6] A wife, furthermore, may divorce a husband with his consent and, failing such consent, may be granted an obligatory divorce by the Cadi if her husband

[1] *Laws of Manu*, ch. v., v. 154.
[2] Letourneau, *loc. cit.*, p. 237. [3] *Koran*, ch. ii., vv. 229, 230.
[4] Meynier, *Études sur l'Islamisme*, pp. 168-9.
[5] *Koran*, ch. ii., v. 229. [6] Letourneau, *loc. cit.*, p. 238.

is impotent or treats her with excessive brutality, in which case she is entitled to the return of her dowry.[1]

The *Koran* imposes no restrictions upon remarriage except that a divorced wife is forbidden to remarry until three menstrual periods have elapsed. This regulation serves to establish the paternity of the child should the woman prove pregnant, and women are enjoined, "if they believe in God and in the day of judgment," not to dissemble their pregnancy. Husbands, moreover, are advised to allow a pregnant wife to return.[2] The injunctions of the *Koran*, however, are not always strictly obeyed. For example, Ibrâhîm Halebî informs us that "In the absence of serious reasons no Mussulman can justify divorce in the eyes either of religion or the law," [3] but Lane reminds us that, in actual practice, a Muhammadan may say to his wife, without assigning any reason, "Thou art divorced," and she must return forthwith to her parents or friends.[4] Mr. Bosworth Smith, however, remarks that the facilityof Muhammadan divorce is a necessary consequence of the separation of the sexes. "A man," writes Mr. Lane-Poole, "would never embark in the hazardous lottery of Eastern marriage, if he had not seen the escape of divorce from the woman whom he has never seen, and who may be in every way uncongenial to him." [5]

The hazards of matrimony, however, are by no means confined to the Muhammadan world. Young couples in China, Japan, India, Indo-China, and several parts of the East Indian Archipelago rarely, and sometimes never, meet before their marriage; among many of the Bantus, Negroes, and American Indians, a chief wife, as we have already seen, is selected by the parents, and the couple themselves have little or no choice in the matter; consequently a very large proportion of such unions, were it not for the existence of polygamy or the facility of

[1] Meynier, *Études sur l'Islamisme*, p. 174.

[2] *Koran*, ch. ii., v. 228.

[3] Amír Alí (M. Sayyid), *The Personal Law of the Mahommedans*, p. 332.

[4] Lane, *Manners and Customs of the Modern Egyptians*, vol. i., pp. 139, 247.

[5] Lane-Poole, in *Academy*, vol. v., p. 684.

divorce, or both, would inevitably be foredoomed to failure. Civilization, however, has not only imposed artificial restrictions —thanks chiefly to the development of marriage by purchase or by dower—upon freedom of choice, but has also in many cases, by developing definite divorce laws, artificially increased the duration of human marriage. In the course of the next chapter we shall examine the development of divorce among the Jews, Greeks, Romans, and modern Europeans, but, in passing, we would stress the fact that the artificial curtailment of the primitive human right of either husband or wife to dissolve a union at will has been due primarily to entangling matrimony with property rights, and thus converting it into a civil contract; to the development of the theory of marriage as a religious institution; to the achievement of temporal power by certain great religions; and, lastly, to State interference, actuated chiefly by the growth of the doctrine of *parens patriae*.

Many of these restrictions would undoubtedly have been ignored but for the tremendous power wielded by Church and State, and woman in particular has suffered in consequence. Being by nature far more childlike and superstitious than man, and lacking also masculine initiative and pugnacity, she has mutely tolerated the cruel bondage of marital slavery imposed by religion in India, and meekly submitted to the virtual absence of sanction for divorce in Catholic and Muhammadan countries. Moreover, as Westermarck points out, "the woman's subordinate position and her inability to support herself, makes separation more difficult for her than for man. Moreover, if a woman claims a divorce, the purchase sum paid for her has to be returned, and she may even, in certain cases, forfeit her dowry and whatever property she brought with her at marriage. If she must lose her children also, she will naturally shrink from the idea of separation." [1] In primitive times many of these disabilities did not exist. Woman was much less subordinate and far more self-supporting, and if she divorced or was divorced by a husband she usually remarried again almost immediately.

[1] Westermarck, *loc. cit.*, p. 534.

Men for the most part tolerated the restrictions imposed upon their primitive right of capricious repudiation because the new restrictions also offered certain very definite financial advantages. Moreover, the existence of polygamy, concubinage, prostitution, and almost unlimited authority over a wife enabled man to indulge his passions—either openly or secretly—with but little restraint, and so more than compensated for the fact that he was no longer entitled peremptorily to order out of doors a wife of whom he had tired. Love, both primitive and highly developed, however, was a factor which, although largely ignored by religion and society, tended either to strengthen or destroy these artificial restrictions. Couples possessing a genuine affection for each other naturally approved of all measures, no matter how artificial, which tended to strengthen the matrimonial bond and render unions more durable, while those who were unfortunate in their unions or who considered the hazards of the matrimonial lottery too great, naturally rebelled against State and ecclesiastical restrictions and sought to circumvent them. Consequently free (*i.e.* non-legal and non-ecclesiastical) unions have at some time or other existed side by side with legal and sacerdotal unions in nearly all parts of the world.

Such free unions, moreover, have often partaken of the nature of trial marriages, and have been explicitly entered into with a view to ascertaining the suitability of the couple and thus obviating the unpleasantness, if not the impossibility, of divorce in the event of mismatching. Furthermore, these trial marriages have not only surreptitiously been indulged in by individuals, but have also been openly advocated by society among numerous races in various stages of development, as witness the following examples.

According to Herrara, the Otomies of Mexico encouraged young couples to spend a trial night together.[1] The Wyandots instituted trial marriages which were binding for a few days only; [2] among the Sonthals, candidates for marriage had first of

[1] Demeunier, *Esprit des Différents Peuples*, vol. i, p. 155.

[2] Waitz, *loc. cit.*, vol. iii., p. 105.

all to live for six days together, and it was only if this proved successful that they were permitted to marry,[1] while trial marriages of two weeks' duration were common among the Sinhalese.[2] Many tribes in the Indian Archipelago contracted marriages for periods varying from one month to a term of years: [3] a Sighe wife, in Persia, could be legally married for a stipulated period varying from one hour to ninety-nine years ; [4] while certain Tartar tribes of Russia entered into experimental marriages for a year, it being understood that the union should be rendered permanent in the event of children.[5] Trial marriages, or marriages for stipulated periods only, were also customary among several of the Canadian tribes,[6] the Creeks,[7] some Negro tribes,[8] the Abyssinians,[9] and numerous other peoples.

Coming nearer home, it may be mentioned that the Jews in Morocco used to enter into temporary marriages for periods of either three or six months. These marriages were considered highly respectable, were consecrated by the Rabbis, and were entered into upon the understanding that, in the event of a child, the father should contribute to its support by making a suitable donation to the mother.[10] Trial marriages were also common in Scotland within comparatively recent years. This custom was known as " Handfasting " (a derivative of the old Anglo-Saxon word " *handfaestnung*," or hand-pledging) and the couple entering into the union simply held hands and pledged themselves to live together for a year and a day. This form of temporary marriage was recognized by law, it being stipulated

[1] *The People of India*, vol. i., p. 2. [2] Davy, *Ceylon*, p. 286.

[3] Crawford, *Hist. of the Indian Archipelago*, vol. i., p. 88.

[4] Polak, *Persien, Das Land und seine Bewohner*, vol. i., p. 207.

[5] Cook, *Travels through the Russian Empire and Tartary*, vol. i.

[6] Demeunier, *loc. cit.*, vol. i., p. 155.

[7] Schoolcraft, *loc. cit.*, vol. v., pp. 272 ff.

[8] Waitz, *loc. cit.*, vol. ii., p. 114.

[9] Lobo, in Pinkerton, *Coll. of Voyages and Travels*, vol. xv.

[10] Decugis, quoted by Letourneau, *loc. cit.*, p. 67.

that if a child were born of the union the partner who objected to further cohabitation should be responsible for its support.[1]

Trial marriages, not recognized by society, are still entered into in both Europe and America, and there is a very definite movement in some quarters to agitate for their official recognition. Thus it is urged that such unions failed in the past simply because of the difficulties arising over the matter of the support and legitimacy of the children, but that with the present know ledge of birth-control these old difficulties might easily be obviated. We shall revert to this later, however.

[1] *Encyc. Brit.*, xi. ed.

X

THE DEVELOPMENT OF MODERN DIVORCE

The marriage and divorce laws of modern European peoples are based almost exclusively upon those elaborated by the Jews, Greeks, and Romans. Among all three of these peoples, as also among the Hindus and Chinese, the family, or the family clan, was a powerfully organized social unit, and marriage was regarded as a religious duty which a man owed both to himself and to his ancestors. In consequence of these facts marriage and divorce were regulated by elaborate civil and sacerdotal codes.

We have already seen that among numerous primitive peoples a man captured or bought his wives, sold his daughters, selected his sons' wives without consulting them, offered his children as hostages or sold them in order to relieve his necessity, and expected them to support him in his old age. Among the Aryan and Semitic peoples the powers of the head of the family were even greater, and also possessed a strong religious significance. Thus, according to Professor Goudy, the family in ancient Rome consisted of all those persons who were subject to the authority of the family head, or *paterfamilias*, who might have a whole host dependent upon him, wife and sons and daughters, daughters-in-law and grandchildren by his sons, and possibly remoter descendants related through males; while the *paterfamilias* was himself a member of the family only in the same sense in which a king is a member of the community over which he rules.[1]

His powers moreover, among the Aryans and Semites, were

[1] Goudy, H., "Roman Law," in *Encyc. Brit.*, xi. ed., vol. xxiii., p. 529.

of a definitely religious character, and Professor Fustel de Coulanges reminds us that, "the father is not only the strong man, the protector who has power to command obedience; he is the priest, he is heir to the hearth, the continuator of the ancestors, the depository of the mysterious rites of worship, and of the sacred formulas of prayer. The whole religion resides in him." [1] In brief, ancestor worship among these peoples had even a greater hold than it has to-day among the Chinese and Japanese. Fatherhood, therefore, was universally revered, while celibacy was regarded as an impiety and a misfortune. "An impiety, because one who did not marry put the happiness of the Manes of the family in peril; a misfortune, because he himself would receive no worship after death." [2]

In consequence of these beliefs marriage, among the ancient Hebrews, was a religious obligation, and the Talmud proclaimed that he who failed to fulfil this essential duty was accursed by God.[3] The Jewish father, moreover, possessed extraordinary powers over his children. Thus an old law of Jahveism permitted him to offer his child as a pledge to a creditor, or to sell it.[4] He had moreover, in very early times, even the power to kill a son or daughter, as is illustrated by the Biblical narratives of Abraham's meditated sacrifice of his son,[5] and of Jepthah's actual sacrifice of his daughter.[6] The father also had the right to choose his sons' wives, and to dispose of his daughters in marriage,[7] while Michaelis informs us that, under the laws of Moses, the father's authority over his children ceased only at his death.[8] As was only to be expected, the duty of children to parents was also religious (being placed second to their duty

[1] Coulanges, F. de, *The Ancient City* (trans.), p. 116.

[2] *Ibid.*, p. 63.

[3] Mayer, *Die Rechte der Israeliten*, etc., pp. 286, 353.

[4] Ewald, G. H. A. von, *The Antiquities of Israel* (trans.) p. 179.

[5] Genesis, ch. xxii., vv. 9, 10. [6] Judges, ch. xi., vv. 30 ff.

[7] Genesis, ch. xxiv., v. 4; ch. xxviii., vv. 1 ff.; Exodus, ch. xxxiv., v. 16; Deuteronomy, ch. vii., v. 3.

[8] Michaelis, *Commentaries on the Laws of Moses* (trans.), vol. i., p. 444.

towards Jahweh in the Decalogue), while death was the legal penalty imposed upon a child who struck, or even cursed, a parent.[1]

Although the Jew was in the main monogamous, he was by no means always so,[2] for definite laws existed governing polygamy [3] and concubinage,[4] and infidelity—judging by the innumerable references to harlots in the Old Testament—seems to have been fairly common. A wife, however, was kept in strict subjection; her adultery was punishable by death; a childless widow, whether she wished it or not, was automatically passed on to her brother-in-law,[5] and a husband could divorce a wife practically at his pleasure.

The law governing dismissal or divorce is recorded in the Book of Deuteronomy, and stipulates that, "When a man hath taken a wife and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house, and when she is departed out of his house she may go and be another man's wife." [6] The word "uncleanness"—which literally means "nakedness in aught"—was in later times the subject of much controversy. Thus Shammai, who founded a school shortly before the birth of Jesus, held that the meaning of the word was limited to adultery, whereas his disciple Hillel, who founded an opposition school, repudiated this limitation and maintained, perhaps somewhat hyperbolically, that the word was applicable to such trivial offences as bad cooking. Aquiba, one of Hillel's disciples, went even further, and definitely taught that a man might legitimately divorce his wife in favour of a more beautiful woman.[7]

[1] Exodus, xxi., vv. 15, 17; Leviticus, ch. xx., v. 9.

[2] Genesis, ch. xxiv., v. 34; ch. xxix., vv. 23-28; 1 Kings, ch. xi., v. 3; 2 Chronicles, ch. xi., vv. 21, 23.

[3] Deuteronomy, ch. xxi., v. 15. [4] *Ibid.*, ch. xxii., vv. 15-21.

[5] *Ibid.*, ch. xxv., vv. 5-10.

[6] Deuteronomy, ch. xxiv., vv. 1, 2.

[7] *Minutes of Evidence, Roy. Comm. on Div. and Mat. Causes*, vol. iii., p. 230.

The mere fact that such controversies arose shows quite clearly that divorce among the Jews was, in actual practice, very largely a matter of caprice. Easy divorce, moreover, was facilitated by the fact that the wife's dowry, arranged under the *Kethubah*, or marriage contract, was not handed over to the husband, but was retained by the wife's father for her use. With a view to reform, therefore, a Pharisee named Simon (*b.* Shetah) stipulated that the wife's dowry should be merged into the husband's fortune, assuming that, as this would invariably be spent, divorce would become less frequent owing to the difficulty experienced by the husband when faced with the necessity of refunding the dowry.[1]

Under the original Mosaic law the husband's right of divorce was subject to two limitations. Thus a Jew could not divorce his wife (*a*) if he had outraged her prior to his marriage, and (*b*) if he had at any time falsely accused her of pre-nuptial unchastity. In later years, however, Mishneh added three further exceptions, and refused divorce if the wife was a minor, or insane, or in captivity.[2]

The bill of divorce which was given to the wife was called a *Get*; the names of both parties were stated in it, and the wife's freedom was admitted. Generally speaking the document was drawn up by a scribe, although it was not uncommon for a rabbi to perform the task, but up to the time of Jesus neither the wife's consent nor rabbinic sanction was necessary for its execution. In the first century A.D., however, a rule (Yebamoth, xiv., 1) enacted that a wife might contest a divorce, and compel her husband to justify his action before a specially constituted court, called the *Beth Din*. The wife, however, could still be divorced without her consent if the *Beth Din* approved of her husband's action, but to secure greater regularity in divorce, Gamaliel, in A.D. 40, stipulated that the *Get*

[1] Montmorency, J. E. G. de, *ibid.*, "Appendices: Intro. to Hist. of Divorce," p. 3.

[2] Adler, Rev. Dr. H., *Minutes of Evidence, Roy. Comm.*, etc., vol. iii., p. 406.

should be signed by two witnesses, and handed to the wife in their presence.[1]

Marriage in ancient Greece was regarded as both a religious obligation and a civic duty. Thus, speaking of the religious aspect of marriage, Plato informs us that every individual was bound to provide for a continuance of representatives to succeed him as ministers of the Divinity,[2] while Isaeus declared that, "All they who think their end approaching, look forward with a prudent care that their houses may not become desolate, but that there may be some person to attend to their funeral rites, and to perform the legal ceremonies at their tombs." [3]

On the civic side, the laws of Solon placed marriage under State inspection, and an Athenian who did not marry was liable to prosecution.[4] Similarly, at Sparta, Lycurgus placed hardened celibates under a social ban which deprived them of that honour and respect normally rendered by the young to the old, and also authorized the magistrates to compel offenders to march naked round the market-place in winter singing a song composed against themselves.[5] Further, as an inducement to marriage, Lycurgus compelled young men to assist at the gymnastic exercises of naked girls. "This," says Plutarch, "was an incentive to marriage, and, to use Plato's expression, drew them almost as necessarily by the attraction of love as a geometrical conclusion is drawn from the premises." [6]

A Greek father originally possessed unlimited authority over his wife and his children. He could either dispose of a daughter's hand during his lifetime, or bequeath her in his will: a wife, and a son who was a minor, could also be disposed of by will. Thus Demosthenes records, "Demosthenes, my father, bequeathed

[1] Abrahams, I., *Minutes of Evidence, Roy. Comm. on Div.*, vol. iii., pp. 230 ff.

[2] Westermarck, *loc. cit.*, p. 142.

[3] Isaeus, quoted by Westermarck, *ibid.* p. 142.

[4] Westermarck, *loc. cit.*, p. 142.

[5] Plutarch, *Apophthegms of the Lacedemonians*,—*Demandes Romaines*, lxv.

[6] Plutarch, *Lycurgus*, xxvi.

his fortune, which was fourteen talents, myself, aged seven, my sister, aged five, and our mother. At the moment of dying, when asked what he would have done with us, he bequeathed *all these things* to this Aphobus and to Demophontes, his nephews; he married my sister to Demophontes, and gave at once two talents." [1] Demosthenes also records that "Pasion dying, bequeathed his wife to Phormion." [2] In later times, an Athenian father's authority over his son ceased at the age of twenty, but a daughter was in a state of nonage all her life, and if she married she simply passed out of the power of her father into that of her husband.[3]

In addition to his legal wife, a Greek husband might also possess domestic concubines with the sole reservation that their children might not inherit him.[4] A Greek wife, moreover, was shut up in the *gyneceum*, where she could receive only her parents and such friends as were authorized by her husband.[5] But although the wife was thus sequestered in the conjugal house, the husband was at perfect liberty to frequent and court the hetaïrae (ἑταίραι) who were professional courtesans. Nor was public opinion outraged. "If," writes Lecky, "we can imagine Ninon de l'Enclos at a time when the rank and splendour of Parisian society thronged her drawing-room, reckoning a Bossuet or a Fénelon among her followers—if we can imagine these prelates publicly advising her about the duties of her profession, and the means of attaching the affections of her lovers—we shall have conceived a relation scarcely more strange than that which existed between Socrates and the courtesan Theodota." [6]

Greek marriage was treated as a free contract, and divorce, practically at will, seems to have been permitted from the earliest

[1] Demosthenes, *Against Aphobus*.

[2] Demosthenes, *For Phormion*. [3] Westermarck, *loc. cit.*, p. 232.

[4] Letourneau, *loc. cit.*, p. 194; Homer, *Odyssey*, xiv.

[5] Letourneau, *loc. cit.*, p. 194; Lecky, *History of European Morals*, vol. ii., p. 287.

[6] Lecky, *loc. cit.*, p. 281.

times. Thus, according to the "Leges Gortyniorum," a primitive code which was discovered in 1884, divorce at will was sanctioned, but if unduly capricious involved heavy pecuniary penalties. Furthermore, although the wife was almost entirely subjected to her husband, she had the legal right, if compelled to leave him owing to his bad conduct, to take her dowry, the results of her work—such as weaving, etc.—and a portion of extant property with her.[1]

Under Athenian law, however, a distinction was made between a husband's and a wife's divorce, the former being called "the sending away" (ἀποπομπή), and the latter "the abandonment" (ἀπόλειψις).[2] No legal action whatever was necessary on the part of the husband, although it was customary for him to dismiss his wife in front of witnesses, but if a wife wished a divorce she was compelled to attend the Archon in person and to file a written statement in support of her plea.[3] In actual practice, owing to the fact that a wife was cloistered in the *gyneceum*, the fulfilment of this regulation was extremely difficult, and it is recorded that when Hipparete, the wife of Alcibiades, attempted to file a divorce petition, her husband collected a band of men and forcibly dragged her from the Archon.[4] A husband, however, if he divorced his wife for any cause other than adultery, was compelled to return her dowry, and until this was repaid he was charged interest at the rate of nine obols a month.[5] Athenian law was finally superseded by Roman law about the year A.D. 212.

The Roman laws governing marriage and divorce were influenced by both Greek and Jewish laws. Thus the laws of the Twelve Tables were traditionally founded upon the laws of Solon, while the divorce laws of the later emperors were

[1] "Leges Gortyniorum," table ii., 45, quoted by Montmorency, *loc. cit.*, p. 3.

[2] Montmorency, *loc. cit.*, p. 3.

[3] Demosthenes, *Against Onetor*, viii.

[4] Howard, *History of Matrimonial Institutions*, vol. ii., p. 12.

[5] *Leges XI.*; Potter, *Archaeologia Graeca*, vol. ii., p. 273.

influenced by the early Christian Church, and therefore by Jewish customs. In early times, however, two entirely different sets of practices in marriage and divorce existed side by side, and in accounting for this it will be necessary to give a brief sketch of the constitution of Roman society.

The primitive Romans, who were an amalgam of three different races—Latin, Sabine, and Etruscan—were divided into two classes, one dominant, who enjoyed all the rights of citizenship, and the other semi-servile, and excluded from all such rights. The first class were called the *patricii*, or *Quirites*, the second, the *clientes*, and in later years, the *plebeii*. The patrician families bearing a common name and claiming descent from a common ancestor were organized into clans, or *gentes*, and according to tradition these clans normally numbered three hundred altogether. The clans were constitutionally organized into thirty curies, there being probably ten in each of the three tribes, organized for military, political, and religious purposes. Each clan originally had its own particular cult, its common property, a common burial ground, and probably a common council or assembly. The clans, however, also included certain non-patrician persons, called *clientes*. Their origin is uncertain, but it is generally supposed that some of them were the original inhabitants of Rome, that others were immigrants whom the patricians were unwilling to enslave, and that the remainder were freed slaves. In any case, the clients lived under the patronage of the heads of the patrician families, and their patron supplied them with sustenance, and sometimes gave them a plot of ground to cultivate for themselves during his pleasure.[1] The client, in return, was obliged to maintain his patron's interests to the utmost of his powers. According to Mommsen, voluntary clientage died out in a century or two and the ex-clients automatically became plebeian freemen, while in the course of time their numbers were added to by the

[1] Goudy, H., " Roman Law," in *Encyc. Brit.*, xi. ed., vol. xxiii., pp. 526, 527.

immigration and the transplantation of the inhabitants of conquered cities.[1]

In early Rome, then, only the *Quirites* enjoyed legal rights, and these rights and obligations were embodied in a code called the *jus Quiritium.* One of these rights, of course, was that of making a legal marriage. Marriage among the *Quirites*, as among the Jews and Greeks, was both a religious and a civic obligation. "Believing," writes Professor Goudy, "that the happiness of the dead in another world depended on their proper burial and on the periodical renewal by their descendants of prayers and feasts and offerings for the repose of their souls, it was incumbent upon him above all things to perpetuate his race and his family cult. The Romans were always strictly monogamous. In taking to himself a wife, he was about to detach her from her father's house and make her a partner of his family mysteries. With the patrician at least this was to be done only with divine approval, ascertained by *auspicia.* His choice was limited to a woman with whom he had *connubium*, or right of inter-marriage. . . . A patrician citizen, therefore, if his marriage was to be reckoned lawful (*justae nuptiae*), had to wed either a fellow patrician or a woman who was a member of an allied community. In either case it was essential that she should be outside his sobrinal circle, *i.e.* more remote in kinship than the sixth degree. The ceremony was a religious one, conducted by the chief pontiff and the flamen of Jupiter, in presence of ten witnesses, representatives probably of the ten curies of the bridegroom's tribe, and was known as *farreum* or *confarreatio.* Its effect was to dissociate the wife entirely from her father's house, and to make her a member of her husband's; for confarreate marriage involved *in manum conventio*, the passage of the wife into her husband's 'hand' or power, provided he was himself *paterfamilias*; if he was not, then, though nominally in his hand, she was really subject like him to his family head. Any property she had of her own . . . passed to him as a matter of course; if she had none, her *pater-*

[1] Mommsen, T., *The History of Rome* (trans.), vol. 1.

familias usually provided her a dowry (*dos*), which shared the same fate, in fact so far as her patrimonial interests were concerned, she was in much the same position as her children; and on her husband's death she had a share with them in his inheritance as if she had been one of his daughters." [1]

A woman married by confarreation could be divorced only through the contradictory ceremony of diffareation. In early times the right was granted to a husband only and was subject to certain limitations. "Romulus," says Plutarch, "gave the husband power to divorce his wife in case of her poisoning her children, or counterfeiting his keys, or committing adultery, and if on any other account he put her away she was to have one moiety of his goods, and the other was to be consecrated to Ceres." [2] Even for these recognized offences, however, the husband could not divorce his wife on his own authority, but had first to consult the clan or family council. In point of fact divorce seems to have been extremely rare among the patricians in early times, but this was probably because the wife, despite the fact that she possessed more liberty than did a Grecian wife, was as subject to her husband's authority as were his daughters, and because the husband frequently utilized his female slaves as concubines.

The Roman wife, moreover, was so completely under the authority of her husband and his clan that she might be dealt with by the family council for even so serious a crime as murder,[3] while in certain circumstances her husband was empowered to put her to death.[4] Among the lesser powers enjoyed by a husband was that of inflicting corporal punishment on a wife, and, judging by the comments of St. Monica, this privilege was fully exercised even down to the days of the empire. Thus the saint, noticing the evidence of marital correction on the faces of many of her married friends, counselled wifely prudence. "Take care to control your tongue," she urged. "It is the

[1] Goudy, H., in *Encyc. Brit.*, xi. ed., vol. xxiii., p. 530.
[2] Plutarch, *Romulus*, xxxv. [3] Letourneau, *loc. cit.*, p. 200.
[4] Lecky, *History of European Morals*, vol. ii., p. 299.

duty of servants to obey their master. . . . You have made a contract of servitude."[1] Incidentally, Letourneau is of the opinion that the husband's right of *manus* enabled him—as also the Greek husband—to loan his wife, and cites the case of Cato lending his wife Martio to his friend Hortensius as an interesting survival of this primitive right.[2]

The *paterfamilias*, in addition to possessing the power of *manus* over his wife, possessed *patria potestas* over his children, and this latter right originally included the power of life and death (*jus vitae necisque*). Thus, under an express law of the Twelve Tables—a legal code traditionally modelled upon the laws of Solon—the *paterfamilias* was entitled to imprison, sell, or kill his children, and Plutarch informs us that Brutus, in passing sentence of death on his son, did so not as a consul but as a father.[3] The *paterfamilias*, moreover, in addition to possessing the power of disposing of his daughter's hand in marriage, could also divorce and remarry her if his son-in-law was absent for three years.[4] Theoretically, the consent of the girl was necessary to her marriage, but as the nuptial majority of young girls was fixed at twelve, and child marriages were the general rule,[5] this consent was largely fictitious. Thus, according to Friedlander, the Roman wife was still such a child that she often on her wedding day took ceremonious leave of her dolls and playthings, and offered them to the gods. It was not a wife who made the engagement, but the persons in whose power she found herself.[6]

In 445 B.C. Servius Tullius granted citizenship to the plebeian class, thereby conferring *connubium* and entitling them to contract legal marriages. The legal marriage ceremony for the plebeian was called *coemptio*, and was really a symbolic act of purchase, a piece of copper (*rauduscul*um) being handed by the

[1] Saint Augustine, *Confessions*, bk. ix., ch. 9.

[2] Letourneau, *loc. cit.*, pp. 201, 202.

[3] Westermarck, *loc. cit.*, p. 229.

[4] Plautus, *Stychus*.

[5] Letourneau, *loc. cit.*, p. 198.

[6] Friedlander, quoted by Letourneau, *loc. cit.*, p. 199.

bridegroom to the *paterfamilias* of the bride, who in return handed his daughter to the bridegroom; renounced his right of *manus* or *potestas* over her, and passed her into the *manus* of the husband. For a long time, however, the primitive plebeian formless marriages, or free associations, involving no right of *manus*, continued to be popular, and it was enacted that a man who had married a wife neither by confarreation nor coemption could obtain *manus* over her by virtue of continuous free cohabitation for one year (*usus*). A non-legal wife who desired to retain her freedom was therefore obliged to absent herself from her husband's house for three nights in each year.[1] Most modern sociologists are of the opinion that *usus* was a relic of bride capture and *coemptio* of wife purchase, while Letourneau holds that the customs of *usus*, *coemptio*, and *confarreatio* represent the three successive stages in the development of Roman marriage.[2]

Just as marriage by confarreation could be dissolved by diffareation, so also marriage by coemption could be dissolved by repudiation, and by the husband's formal renunciation of his right of *manus*. Even before the time of Gaius, however, many patricians—out of consideration of their wives—had ceased contracting confarreate marriages involving *manus*, and with the gradual disappearance of class distinctions at the time of the second Punic war, marriages called *jurum matrimonium*, and not involving *manus*, were contracted by patricians and plebeians alike. These marriages, the legality of which depended only upon *connubium*, *pubertas*, and *consensus*, could be dissolved by mutual consent (*divortium bona gratium*), or by the husband or wife alone (*repudium*), and common grounds for such divorce included desertion, barrenness, old age, ill-health, military service, or the assumption of sacerdotal office.[3]

In 167 B.C. the Maenian Law, writes Professor Muirhead, "displaced the family council as a divorce court, and transferred

[1] Goudy, in *Encyc. Brit.*, vol. xxiii., p. 531.

[2] Letourneau, *loc. cit.*, p. 203.

[3] *Digest*, xxiv., i., 60-62; Montmorency, "Intro. to the History of Divorce," *loc. cit.*, p. 10.

its function in that matter to a *judicium de moribus*—a court of inquiry nominated by the praetor, and whose duty it was to decide to what extent there should be forfeiture of the nuptial provisions in case of separation or repudiation." [1] Legislature was carried still further by the consul L. Julius Caesar, in his *lex Julia* (90 B.C.). This code imposed pecuniary penalties upon both husband and wife, and enacted that a husband might retain one-sixth of his wife's *dos* if he divorced her for adultery, and one-eighth if she was divorced for a lesser offence. It further stipulated that if a husband was divorced for adultery he must return the whole of his wife's *dos*, but inflicted no penalty in cases where both partners were at fault.[2]

Divorce, under the emperors, was subject to still more drastic reform. Thus, in A.D. 331, Constantine permitted a husband to divorce a wife without *dos* forfeiture if guilty of (*a*) adultery, (*b*) preparing poisons, or (*c*) acting as a procuress; while a wife was entitled to divorce her husband without *dos* forfeiture if he committed murder, prepared poisons, or violated a tomb. In the event of her divorcing him for any lesser offence she completely forfeited her *dos*, and was liable to deportation for life. In A.D. 421, the emperors Honorius and Theodosius introduced certain laws regulating remarriage. These laws provided that a husband might still retain his wife's *dos* if he divorced her for a serious crime, but inflicted *dos* forfeiture if he divorced her for lesser offences. They further enacted that if a husband divorced his wife from mere dislike or caprice she was entitled not only to claim back her own *dos* but to claim also the *dos* of her ex-husband's second wife, should he remarry. These regulations rendered remarriage after a capricious divorce extremely difficult, if not impossible.[3]

Such prohibitions, however, were almost entirely due to the increasing influence of the Christian Church, which from the

[1] Muirhead, J., *Historical Introduction to the Private Law of Rome*, pp. 233-4.

[2] Montmorency, " Intro. to the Hist. of Divorce," *loc. cit.*, p. 10.

[3] *Ibid.*, p. 10.

time of Constantine onwards obtained considerable secular authority, and in the Middle Ages succeeded in placing practically the whole of Europe under the Canon Law governing marriage and divorce. The basis of the Canon laws in these matters was St. Paul's idealization of celibacy, and the pronouncement of Jesus on divorce. This pronouncement, which was subject to much controversy among the early Fathers, will be fully discussed in the next chapter, but in passing it may be stated that the Church's doctrine of divorce was based upon the text, "Whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery: and whosoever shall marry her that is divorced committeth adultery." [1]

The ecclesiastical controversy about divorce lasted from the second to the fifth century, or from the time of Hermas (A.D. 140) to the death of Saint Augustine (A.D. 430). Thus Hermas held that idolatry, apostasy, and covetousness, equally with carnal transgressions (fornication), were grounds for divorce, but condemned remarriage. Tertullian (A.D. 155-222), in a treatise on monogamy, rejected second marriages as unchristian, but later changed his mind, and in a book addressed to his wife, sanctioned remarriage after divorce; he also held that the marriage of a Christian to a heathen constituted fornication.[2] Marcus Minucius Felix condemned second marriages as unchristian, and expressed the opinion that successive remarriages—even after the death of the previous spouse or spouses—were blameworthy. This view won considerable ecclesiastical approval, with the result that a fourth remarriage was eventually proclaimed to be adulterous.[3] Origen (A.D. 185-254) held that if a woman were guilty of crime equal to or greater than fornication she might be lawfully divorced.[4] St. Basil (A.D. 340-379) considered remarriage by the husband after a divorce pardonable; refrained from condemning the second wife,

[1] Matthew, ch. v., v. 32.

[2] Dodgson, C., *Apologetic and Practical Treatises*, vol. i., p. 421.

[3] Montmorency, "Intro. to the Hist. of Divorce," *loc. cit.*, p. 8.

[4] Origen, *Homily on St. Matthew.*

but held that the remarriage of the divorced woman was precluded by the custom of the Church. St. Jerome (A.D. 340-420), like Hermas, held that idolatry, apostasy, and covetousness were just causes for divorce, but maintained that the ruling of St. Paul (1 Cor., ch. vii., v. 39) forbade the remarriage of a divorced wife. Practically identical views were held by St. Ambrose (A.D. 340-397), while St. Epiphanius (Bishop of Salamis) considered that it was lawful for a man or woman living in separation to remarry.[1]

St. Chrysostom (A.D. 347-407) seemed to change his mind a great deal on the subject, but eventually held that adultery absolutely dissolved a marriage.[2] St. Augustine (A.D. 354-430), like St. Chrysostom, continually changed his mind. Thus, he originally held that "for unlawful lusts, not only such as are committed by carnal inclinations with other men and women, but also for any other lusts, which make the soul, by the ill-use of the body, go astray from the law of God, and perniciously and abominably corrupt it, a man may, without crime, put away his wife, and a wife her husband, because our Lord exempted the cause of fornication, which fornication we are compelled to take in the most general and universal sense." [3] In his later years, however, he retracted this view and proclaimed marriage to be indissoluble, but Dr. Sanday is of the opinion that the decision was made with considerable hesitancy and only in deference to "higher expediency." [4]

It is highly probable that the Church, like St. Augustine, eventually laid down the dogma of indissoluble matrimony not on the grounds of scriptural authority but on those of expediency, and that this represented nothing more than ecclesiastical reaction to the crude licentiousness of the Roman world under the later emperors. Divorce among the Romans, as we have already seen, was obtainable by mutual consent, or by either party at

[1] Montmorency, *loc. cit.*, pp. 8, 9.

[2] St. Chrysostom, *XIX. Homily on I. Epistle Corinthians*, vii., 1-2.

[3] St. Augustine, *De Sermo Dom. in Monte*, lib. 1, c. xvi.

[4] Sanday, in *Evidence of the Roy. Comm. on Div.*, etc., vol. iii., pp. 237 ff.

will, subject only to pecuniary penalties, and Lecky informs us "that under this system the obligations of marriage were treated with extreme levity. We find Cicero repudiating his wife Terentia, because he desired a new dowry; Augustus compelling the husband of Livia to repudiate her when she was already pregnant, that he might marry her himself; Cato ceding his wife, with the consent of her father, to his friend Hortensius, and resuming her after his death; Maecenas continually changing his wife; Sempronius Sophus repudiating his wife, because she had once been to the public games without his knowledge; Paulus Æmilius taking the same step without assigning any reason, and defending himself by saying, 'My shoes are new and well made, but no one knows where they pinch me.' Nor did women show any less alacrity in repudiating their husbands. Seneca denounced this evil with especial vehemence, declaring that . . . there were women who reckoned their years rather by their husbands than by the consuls. . . . Martial speaks of a woman who had already arrived at her tenth husband; Juvenal, of a woman having eight husbands in five years. But the most extraordinary instance of this kind is related by St. Jerome, who assures us that there existed in Rome a wife who was married to her twenty-third husband, she herself being his twenty-first wife." [1]

In any case, the fourth century witnessed the rapid elaboration by the Church of the theory and dogma of indissoluble matrimony. Thus, the Council of Elvira (A.D. 305) authorized the excommunication of a divorced woman who remarried; the Council of Arles (A.D. 314) approved of the general principle of indissoluble matrimony, and the Council of Carthage (A.D. 407) definitely laid down the strict doctrine of indissolubility.[2] Thereafter, the Church—with the aid of the penalty of excommunication—not only succeeded in enforcing this dogma, but also—by virtue of her secular power and influence—in drastically reforming the Roman legislature. Thus, yielding to

[1] Lecky, *History of European Morals*, vol. ii., pp. 306, 307.

[2] Canon 102, in *Integer. Codex Canonum Ecclesiae Africanus*.

ecclesiastical pressure, the Emperor Justinian (A.D. 527-565) rescinded the ancient right of divorce by mutual consent excepting in cases where (1) the husband was impotent, (2) the husband was subject to prolonged captivity, and (3) either the husband or wife wished to enter a religious order or monastery. At a later date he enacted that all marriages other than ecclesiastical were illegal, and that the infringement of this law should be punishable by confinement in a monastery and the confiscation of the offender's property.[1] This, however, was more than Roman citizens could tolerate, and so great was the public outcry that the Emperor Justin II. was obliged to repeal the new laws.[2] Thus, according to Gibbon, "He (Justin) yielded to the prayers of his unhappy subjects, and restored the liberty of divorce by mutual consent; the civilians were unanimous, the theologians were divided, and the ambiguous word (fornication) which contains the precept of Christ is flexible to any interpretation that the wisdom of legislature can demand." [3]

After the enactment of Justin II., civil marriages continued to be legal—at least nominally—up to the date of the Council of Trent. The Church, however, persisted in demanding ecclesiastical and indissoluble marriages, and despite the existence of the civil law succeeded in enforcing her own Canon Law throughout the greater part of Europe. The weapon which chiefly enabled her to do this was the threat of excommunication, for during the Middle Ages an excommunicated person was literally an outlaw, and no Christian was permitted to shelter, associate or even do commerce with a person thus branded, under a penalty of a like fate.

Despite the dogma of the indissolubility of marriage, however, divorces of a sort were nevertheless permitted under Roman Canon Law. Thus, in cases of adultery, cruelty, heresy, or of one of the partners entering religion, separations, or divorces *a mensa et thoro*, were readily granted, and these were literal

[1] Novel xxii., 6-7; Novel 134; Novel 127.

[2] Novel 140 (A.D. 566).

[3] Gibbon, *The History of the Decline and Fall of the Roman Empire*.

divorces minus the right of remarriage. Moreover, full divorces permitting of remarriage, or divorces *a vinculo matrimonii*, were also granted by the expedient of annulling the original marriage, and, in actual practice, Justinian's ingenious invention of the theory of spiritual affinities left few marriages incapable of attack, provided that the persons desiring an annulment possessed sufficient wealth or influence.[1] Marriages, normally prohibited by the tables of blood or spiritual affinity, however, could still be contracted by special papal dispensation—as witness the marriage of Henry VIII. to Catherine of Aragon, the wife of his deceased brother Arthur—and such marriages could also be annulled by papal authority if considered expedient. In point of fact, the Church discovered that it was utterly impossible to force mutually hostile partners to live together, hence she did not hesitate to sanction separations and annulments, but in the face of these concessions it can scarcely be denied that her insistence upon the dogma of indissolubility has been nothing but a hollow sham and a deliberate compromise with avowed principles.

With the Reformation, came the beginning of the end of Roman secular authority and of the dominance of Roman Canon Law. Thus, in England, the Act of Supremacy (A.D. 1534) ordered that the King "shall be taken, accepted, and reputed, the only supreme head of the Church of England," and this supremacy included "full power to visit, repress, redress, and amend all such errors, heresies, contempts, and enormities which by any manner of spiritual authority or jurisdiction might or may lawfully be reformed."[2] The way to this position had been prepared by Henry's statute No. 24, of 1532, in which it was declared that "causes of matrimony, divorce, etc., having caused great trouble and cost, henceforward shall be adjudged within the King's Authority."[3] This was followed by a further statute, No. 38, of A.D. 1540, in which it

[1] Montmorency, "Intro. to the Hist. of Div.," *loc. cit.*, pp. 11 ff.

[2] Green, J. R., *Short History of the English People*, p. 337.

[3] Montmorency, *loc. cit.*

was stated, " There be two kinds of divorce. Divorce *a vinculo matrimonii* and *a mensa et thoro*. . . . Causes for divorce *a vinculo matrimonii* are these: *causa precontractus, causa mentis, causa impotentiae, causa affinitatis, causa consanguinitatis.*"[1] Later, a Royal Commission, presided over by Archbishop Cranmer, was appointed by Henry VIII. to investigate ecclesiastical law, and the report of this Commission, known as the *Reformatio Legum Ecclesiasticarum*, which was rendered in the reign of Edward VI., recommended some drastic changes in the divorce laws. Thus, it was suggested that divorce with the right to remarry should be granted for adultery, desertion and cruelty, while the commissioners emphatically declared that separations without the right to remarry were immoral. " It was formerly customary," reads Article XIX., " in the case of certain crimes to deprive married people of the right of association at *bed* and *board*, though in all other respects their marriage tie remained intact, and since this practice is contrary to the Holy Scriptures, involves the greatest confusion, and has introduced an accumulation of evils into matrimony, it is our will that the whole thing be, by our authority, abolished." [2]

By this clause, the hollow sham of regarding couples as still indissolubly linked together in matrimony when they were actually divorced *a mensa et thoro* would have been abolished, and one of the greatest sophistical compromises ever perpetrated by the Church would have been removed. Unfortunately, the recommendations of this Commission suffered the same fate as did those of the Royal Commission on Divorce and Matrimonial Causes rendered in 1913; in other words, it was ignored and conveniently forgotten. Despite this, however, the power of the old Canon Law in England was broken, and by virtue of Henry's statutes, several private Acts of Parliament were passed in subsequent years granting divorces in special cases. Conspicuous among these were the divorces granted to Lord de Roose in 1669, and to the Duke of Norfolk in 1692.[3]

[1] Montmorency, *loc. cit.*

[2] *Reformatio Legum Ecclesiasticarum* (trans.), Clause XIX.

[3] Montmorency, *loc. cit.*

The new powers acquired by Parliament in dealing with divorce were at first exercised only with considerable reluctance, but after the accession of the House of Hanover the number of such special Acts passed materially increased. Thus, during the years 1715-1775 there were sixty such Acts, while between the years 1800-1850 there were ninety. Finally, in the year 1857, our present divorce law was passed, and under its provisions the civil courts adopted as grounds for separations practically the identical offences as those governing separations, or divorces *a mensa et thoro*, under the old Roman Canon Law. Complete divorce, with the right to remarry, was granted to the husband in the case of his wife's adultery, but to the wife only in the event of her husband's adultery being aggravated by cruelty, desertion, or certain criminal offences. Considerable care, moreover, was taken to avoid offending the scruples of the clergy, and sections 57 and 58 of the act provided that no individual clergyman should be compelled to solemnize the marriage of any person whose former marriage had been dissolved on the ground of adultery, although it was legitimate for any other clergyman to perform the ceremony, if willing, in any church or chapel in which the parties might be entitled to marry. Sixty-six years after the passage of this act, the equality of the sexes in obtaining divorce was conceded, and by the act of 1923 the husband's adultery alone was made sufficient ground for the granting of a divorce.

England, however, still lags far behind the majority of European countries, and even her own Dominions, in the matter of divorce law reform. In Belgium, divorce can be obtained by mutual consent or on the ground of three years' desertion; Denmark permits it after separation for one year by mutual consent, or after two years in the absence of mutual consent. Norway, after a refusal of conjugal rights for two years, and for drunkenness, insanity, and crime. Portugal, Russia and Roumania grant divorce for desertion and by mutual consent. Desertion, for periods varying from one to five years, constitutes grounds for divorce in Scotland, Germany, France, Bulgaria,

Austria, Hungary, Switzerland, the Netherlands, Cape Colony, Natal, New South Wales, New Zealand, Victoria, Western Australia, and most of the States of the United States of America.[1] In short, practically every civilized country not under the dominance of the Roman Church, *except England*, has recognized the gross imbecility and the flagrant immorality of attempting to force people to live in separation for an unlimited number of years, treating them as though they were still married—which is blatant hypocrisy—and precluding them from forming a further legal union.

[1] *Note.*—No attempt has been made to give details of *all* the grounds upon which divorce is granted in these countries, but only to enumerate some of the modern European peoples who permit of complete divorce in cases where desertion, or a refusal of conjugal rights, has lasted beyond a reasonable term of years. For further particulars on the subject, see *Appendices to the Report and Evidence of the Royal Commission on Divorce and Matrimonial Causes*, 1912-13.

XI

CHRISTIANITY AND DIVORCE: A CRITICAL EXAMINATION OF THE DOGMA OF INDISSOLUBLE MATRIMONY

The dogma of indissoluble matrimony, although definitely accepted by the Church at the Council of Carthage in A.D. 407, was not an original doctrine of primitive Christianity and, as we have already pointed out, completely failed to win the approval of some of the most eminent early Christian Fathers. Despite its comparatively late origin, however, the dogma undoubtedly represented the interpretation placed upon the pronouncement of Jesus on divorce by the majority of ecclesiastical authorities of the fourth and fifth centuries, hence we propose to review the teaching of Jesus in the light of modern knowledge with a view to ascertaining whether or not the official divorce doctrine of the early and mediæval Church is entitled to be regarded as a legitimate inference from the teaching of the Founder of the Faith.

In a work dealing specifically with the origin and evolution of marriage, it would obviously be inappropriate to attempt anything in the nature of a résumé of the teaching and philosophy of Christianity, yet, since we are committed to a critical examination of the teaching of Jesus and the Church on divorce, it will be necessary to give some slight indication of the relationship existing between the historical Jesus and the religion which bears His name.

Notwithstanding many allegations to the contrary, Christianity still remains a vital and dynamic religion which has shown itself capable of adjusting its tenets to the facts of modern scientific knowledge without having to sacrifice any really

fundamental principles. Thus modern Christianity insists that the Cause and Sustainer of the universe is a personal God—a Being who is pure Spirit and who is working out a divine purpose. This purpose is now considered to be the development, through a long evolutionary process, of perfected human beings capable of voluntarily reciprocating the love of their Creator, and of entering into filial relationship with Him both in this life and throughout an eternity of spiritual existence. In brief, it insists that there is a God, that He is Personal, Moral, and Benevolent, and that the purpose of life, the crown of progressive evolution, is the development of free spirits approximating to the spiritual and moral attributes of their Creator.

This conception of God is not regarded by the Christian as a mere hypothesis, but as an empirical fact, it being claimed that the divine nature was completely revealed in the person of the historical Jesus. To the Christian, therefore, Jesus is a being apart; a man who in moral quality and spiritual insight is unparalleled in the annals of history; a being who revealed both the nature of God and the true possibilities of human nature; a being, in brief, both human and divine. From the time of St. Paul onwards, a belief in the dual nature of the Founder of Christianity has been the central tenet of the faith, and this despite the existence of innumerable and divergent theories. St. Paul and St. Mark, for example, regarded Jesus almost as "a demi-god treading the earth incognito"; [1] a celestial being who laid aside His divinity and, assuming human guise, descended to earth in order to redeem it, and to reveal the love of His divine Father. Many modern Christians, however, regard Jesus not as a celestial being who laid aside His divinity in order to become man, but as the first human being who, in the evolutionary process, attained complete divinity. In other words, they regard Him "as the supreme achievement of Divine Immanence. The attainment of the perfect type, which becomes the first of a new species . . . as the outcome of an eternal purpose operating through the ages—a divine process of election and selection

[1] Bacon, Prof. B. W., *The Making of the New Testament*, p. 163.

culminating in the greatest event in human history, that ' pivot-certainty of time '—the manifestation of the Godhead in Jesus." [1] It should be added, furthermore, that many liberal Christians insist upon the inherent divinity in every man as well as in Jesus.

With the divergent theories relative to the divinity or humanity of Jesus we have no concern here, the point at issue being to establish the fact that, from the viewpoint of orthodox Christian theology, a belief in the perfect divinity and the perfect humanity of Jesus is implicit. To the Christian, then, Jesus is regarded as inerrant as far as His revelation of the nature of God and of the highest spiritual requirements of human nature is concerned, but from the point of view of secular knowledge He is regarded by enlightened modern Christians as having been subject to the intellectual limitations of His age. Indeed, if the Gospels can be treated as trustworthy historical documents, it is certain that Jesus denied the possession of either omniscience or omnipotence. Thus, when speaking of the advent of the New Age, or the Kingdom of God, He declared " of that day and that hour knoweth no man, no, not even the angels which are in heaven, *neither the Son,* but the Father "; [2] while when He returned to His native town it is reported that " He could do there no mighty work." [3]

This is unquestionably the view of most modern theologians. " The human knowledge of our Lord," writes Canon Streeter, " was limited within the scientific and historical horizon of the mind of His own age. . . . At the present time there are few theologians by whom this position is not accepted, not merely as being plain on the very face of the Gospel narrative, but from the further reflection that we cannot logically deny it without making His humanity unreal." [4] This is also the view of Dr. Temple, the present Archbishop of York,[5] while Bishop Barnes writes:

[1] Major, Rev. Dr. H. D. A., *The Gospel of Freedom,* p. 97.

[2] St. Mark, ch. xiii., v. 32. [3] *Ibid.,* ch. vi., v. 5.

[4] Streeter, Dr. B. H., *Foundations,* Essay III., p. 75.

[5] Temple, Most Rev. W., *Foundations,* Essay V.

" He (Jesus) grew up as a Jewish boy, was educated to accept the secular knowledge of His time. He had human limitations. . . . The idea that Jesus was inerrant with regard to secular knowledge is the product of mistaken reverence. It is on His perfection of moral and spiritual understanding that we base our faith." [1] The enlightened Christian, then, will readily admit that the implicit acceptance by Jesus of the Biblical creation story and the Apocalyptic doctrine of the imminent catastrophic disruption of the existing order of the universe, in no way guarantees the truth of either of these alleged facts, but he will nevertheless accept the moral teachings of Jesus as possessing an absolute validity; while even the non-christian will concede that the ethical injunctions of a man who was unquestionably one of the greatest moral and spiritual geniuses in human history merit respectful attention.

Bearing these facts in mind, we will now proceed to an examination of the alleged teaching of Jesus on the subject of divorce. We use the word " alleged " advisedly, for numerous clerics and theologians regard it as by no means certain that the various dicta of Jesus on divorce were actually spoken by Him, and this despite the fact that accounts of this teaching exist in three separate gospels, namely, Matthew, ch. v., v. 32, and ch. xix., vv. 1-12; Mark, ch. x., vv. 1-12, and Luke, ch. xvi., v. 18. Thus, Archdeacon Watkins holds that Matt. xix. 9 is so corrupt that " no certainty as to the true text is now available," and that " it cannot reasonably be depended on to establish any theory " [2]; Rushbrooke holds that the accounts in Matthew and Luke are early glosses on Mark's account, thus reducing them to a single authority,[3] while Professor Bacon points out that Mark x. 12 presupposes familiarity with the Roman form of divorce.[4] This familiarity cannot reasonably be accredited to Jesus, and thus implies a Markan tampering with the presumed

[1] Barnes, Rt. Rev. W. E., *Should Such a Faith Offend.*

[2] Watkins, O. D., *Holy Matrimony*, pp. 162, 171.

[3] Rushbrooke, *Synopticon*, p. 67.

[4] Bacon, B. W., *The Making of the New Testament*, p. 162.

original teaching—the object of this Pauline disciple probably being to disseminate St. Paul's views on marriage and divorce.

The two principal accounts of the teaching of Jesus on divorce (Matt. xix. 1-12; Mark x. 1-12) are obviously individual narratives of an identical episode. Mark's account, at least in gospel form, is unquestionably the older, but it by no means follows that Matthew used Mark as his sole source, even though he may have been familiar with the Markan version, indeed, there is direct evidence to the contrary. In any case, both gospels agree that the pronouncement of Jesus on divorce on this occasion was not made during a free discourse, but was elicited by the cross-questioning of the Pharisees who were attempting to ensnare Him in His speech—both gospels expressly stating that the Pharisees were "tempting him." [1] Both agree, also, that the episode took place in the coasts of Judaea, on the farther side of the Jordan.[2]

This district was in the territory of Herod Antipas, who had put away his first wife in order to marry Herodias, the wife of his brother Herod Philip. John the Baptist had condemned this marriage as criminal and incestuous, winning thereby the deadly hatred of Herodias, who subsequently induced Antipas to behead the prophet, and it was the avowed intention of the Pharisees to trap Jesus into saying something that might arouse the enmity of Herod Antipas and cause the new prophet to share the fate of His predecessor. So much the Markan and Matthaean traditions have in common, but beyond this point there are certain discrepancies in the two narratives regarding both the nature of the questions put to Jesus and His replies. These details are of vital importance, and as the two narratives cannot both be correct, we must endeavour to discover which is the more likely to be authentic.

Papias, who in A.D. 145 wrote *An Exposition of the Sayings of the Lord* based upon the two gospels of Matthew and Mark, gives us practically all the information we have regarding the

[1] Matthew, ch. xix., v. 3; Mark, ch. x., v. 2.
[2] Matthew, ch. xix., v. 1; Mark, ch. x., v. 1.

beginnings of gospel literature, and endeavours to account for the discrepancies both in narrative and discourse existing between these two gospels. Basing his statements on the "authentic" tradition of Jerusalem witnesses, and especially upon that of John "the Elder," whom he distinguishes from "John the disciple of the Lord," Papias records that our gospel of Matthew represents, in a Greek form, a collection of the Precepts of the Lord which had formerly been current in the original Aramaic, and was therefore limited in its circulation to Palestine.[1] "The primitive work of the Apostle Matthew," writes Professor Bacon, "was probably done in and for Jerusalem and vicinity —certainly so if written in Aramaic. The date, if early tradition may be believed, was 'when Peter and Paul were preaching and founding the Church at Rome.' . . . It had three successors, if not more, two Greek and one Aramaic, all still retaining their claim to the name and authority of Matthew; but all had been recast in a narrative frame." [2]

It was only natural, as Professor Bacon points out, that "after the 'witnesses,' apostolic and other, had begun to disappear, a mere *syntagma* of Jesus' sayings could not suffice." [3] Christian converts, in brief, wanted to know not only what Jesus taught and said, but also what He did and how He acted, hence arose the necessity for gospel narratives similar to the existing synoptic gospels. The earliest surviving gospel is that of St. Mark. "Ancient and reliable tradition," writes Professor Bacon, "informs us that this first endeavour to tell the story of 'Jesus Christ the Son of God' was composed at Rome by John Mark, a former companion of both Peter and Paul, from data drawn from the anecdotes casually employed by Peter in his preaching. . . . Mark's work was done at Rome, according to internal evidence no less than by the unanimous voice of early tradition. It dates from 'after the death of Peter' (64-5) according to ancient tradition. According to the internal evidence it was

[1] Bacon, B. W., *loc. cit.*, pp. 131, 132.
[2] *Ibid.*, pp. 134, 135.
[3] *Ibid.*, p. 138.

written certainly not long before, and probably some few years after, the overthrow of Jerusalem and the temple (70)." [1]

The early date of Mark's gospel, and the fact that its historical data was traditionally drawn from the reminiscences of the Apostle Peter, may seem to give it precedence over the existing gospel of Matthew, which was written by an unknown Palestinian Jew. In point of fact, however, it does no such thing. "Mark," writes Professor Bacon, "is a gospel written purely and simply . . . to show how the earthly career of Jesus gave evidence that this was the Son of God, predestined to exaltation to the right hand of power, with little attempt, if any, to bring in the precepts of the New Law. . . . The most striking characteristic of Mark is that it aims to present the gospel *about* Jesus, and is relatively indifferent to the gospel *of* Jesus. Had the writer conceived his task after the manner of a Matthew, there is little doubt that he could have compiled catechetic discourses of Jesus like the Sermon on the Mount or the discourse on prayer of Luke xi. 1-13. The fact that he disregards such records of Jesus' ethical and religious instruction does not mean that he (tacitly) refers his readers to the Matthaean Precepts, or similar compilations, to supplement his own deficiencies. It means a different, more Pauline conception of what 'the Gospel' is." [2] Mark's gospel, then, is distinctly propagandist, and although probably accurate in its narrative material, contains little that is authentic about the teaching of Jesus. We will now turn to "Matthew."

If we subtract from the existing gospels of "Matthew" and Luke their common Markan data, and also that which corresponds to what we take to have been the original Matthaean *syntagma*, we find a residue of material, embodying both discourse and narrative, which bears every sign of a common origin. This unidentified element is known to the critics as Q, and, in the words of Professor Bacon, "shows that our synoptic evangelists were not the first to attempt the combination of

[1] Bacon, pp. 159, 134.
[2] *Ibid.*, pp. 159, 126.

discourse with narrative." [1] It is apparent, therefore, that the synoptic gospel of "Matthew," which is pseudo-epigraphic, is drawn from three different sources, (*a*) the original Matthaean *syntagma*, or Precepts of Jesus (*vide* Papias); (*b*) from Mark's Petrine reminiscences (from internal evidence), and (*c*) from Q (also from internal evidence).

According to the consensus of opinion of the most eminent modern critics, the author of our "Matthew" was an unknown Palestinian Jew, probably possessing a rabbinical training, who wrote his gospel expressly for his fellow Jews of South Palestine, in or about the year A.D. 90—some two decades after the composition of Mark's gospel. "Matthew" is "the only writer of the New Testament," says Professor Bacon, "who consistently uses the Hebrew Bible," [2] his "narrative framework is adopted from Mark without serious alteration," [3] he uses Q, though less frequently than Luke,[4] he incorporates "large sections from one or more early compilations of the Sayings of Jesus," [5] and, in his gospel, "doctrine as well as history is subordinate to the one great aim of teaching men 'to observe all things whatsoever Jesus commanded.'" [6]

It will now be apparent that any attempt to reduce our "Matthew" to the single Markan tradition is unwarranted in the light of modern knowledge, and although it may be conceded that in some instances he is indebted to Mark for his narrative data, it is also undeniable that his access to the original Matthaean *syntagma* of the Sayings of Jesus renders the first evangelist a more reliable authority than is Mark on questions of doctrine. Thus, it will be apparent that where accounts are given of the cross-questioning of Jesus by the Scribes or Pharisees or Elders, or of their attempts to "ensnare Him in His speech," "Matthew," the Palestinian Jew of rabbinical training, writing for his fellow Jews, is far more likely to reproduce accurately the subtleties and minutiæ of these questions and their answers, than is the semi-Roman Mark or the Antiochian

[1] Bacon, p. 144. [2] *Ibid.* p. 139. [3] *Ibid.* p. 152.
[4] *Ibid.* p. 143. [5] *Ibid.* p. 136. [6] *Ibid.* p. 153.

author of Luke. Hence, in dealing with the cross-questioning of Jesus on the subject of the Mosaic divorce law, we feel fully justified in placing superior reliance upon "Matthew."

The question put to Jesus by the tempting Pharisees, namely, "Is it lawful for a man to put away his wife for *every* cause?" [1] is characteristically subtle. It insinuates that the offence of "uncleanness," which justified divorce under the Mosaic law, included *every* cause of dissatisfaction, no matter how trivial, and that the Mosaic law really constituted a divine sanction for capricious repudiation. The trap was set with considerable skill and cunning, and the questioners anticipated that the answer, no matter how carefully framed, would either involve Jesus in a dispute between the rival schools of Shammai and Hillel, or, better still, constitute a condemnation of the conduct of Herod Antipas, and thus imperil the life of Jesus.

Jesus, however, intuitively realizes the snare set for Him, and, as was His habitual method in such circumstances, speaks guardedly, returns question for question, refers His questioners to their own Scriptures and demands:

> "Have ye not read, that he which made them at the beginning made them male and female, And said, For this cause shall a man leave his father and mother, and shall cleave to his wife: And they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder." [2]

Superficially, at least, His reply is an *argumentum ad hominem*. The Pharisees have in mind the scriptural authority for divorce contained in the Mosaic law. Jesus, therefore, refers them to the scriptural account of the Creation—implicitly reminding them that the Holy Writ must be taken as a whole, and that they are not entitled to quote only such parts as suit their own convenience at the expense of other portions which do not. According to the Scripture, God created the two sexes for a definite purpose, and expressly stated that the bond between man and wife was to be so great that the two would figuratively consti-

[1] Matthew, ch. xix., v. 3. [2] *Ibid.* ch. xix., vv. 4-6.

tute "one flesh," hence, said Jesus, it followed that divorce was not in accordance with God's purpose from the beginning.

The Pharisees readily catch the drift of the argument and eagerly seek to turn it to their own advantage. "Why did Moses then," they ask, "command to give a writing of divorcement, and to put her away?" [1]

Here Jesus departs from the strict *argumentum ad hominem*, so beloved of the Scribes and Pharisees, and speaks with the full authority of a prophet. "Moses," he declared, "because of the hardness of your hearts suffered you to put away your wives: but from the beginning it was not so." [2]

This retort is capable of several interpretations. For example, the word "you," meaning "such as you," may have been addressed directly to the tempting Pharisees, and have implied that, whereas the Mosaic law of divorce was just and equitable, hard-hearted men such as the Pharisees had abused it by extending the meaning of the word "uncleanness" to include trivial and fictitious offences such as would permit of capricious repudiation, and that Moses had foreseen such abuses but had suffered them rather than deprive good men of a legitimate avenue of escape from unions which proved to be intolerable.

This is unquestionably the view of Milton. "Now that many licentious and hard-hearted men took hold of this law to cloke their bad purposes," he writes, "is nothing strange to believe. And these were they, not for whom Moses made the Law (God forbid!) but whose hardness of heart taking ill-advantage of the law he held better to suffer as by accident where it could not be detected, rather than good men should lose their just and lawful privilege of remedy: Christ therefore, having to answer these tempting Pharisees," and "not meaning to inform their proud ignorance what Moses did in the true intent of the law, which they had ill-cited, suppressing the true cause for which Moses gave it, and extending it to every slight matter, tells them their own, what Moses was forced to suffer by their abuse of his

[1] Matthew, ch. xix., v. 7. [2] *Ibid.* ch. xix., v. 8.

law. Which is yet more plain, if we mark that our Saviour, in Matt. v., cites not the law of Moses, but the pharisaical tradition falsely grounded upon that law." [1]

Milton here assumes that the Mosaic law governing divorce was "a grave and prudent law, full of moral equity . . . a law consenting with the law of the wisest men and civilest nations," [2] a law, in brief, that commanded the approval of Jesus as equally as it did that of the poet. Few sociologists, however, would be prepared to concede that the Mosaic law was *originally* formulated with any such high ethical intent. Nevertheless, it is unquestionable that such an intent was read into it later, otherwise the school of Shammai would not have secured the following which it did. It may be argued, therefore, that Jesus would hold an opinion of this law as equally high as did Shammai, and that, believing the Mosaic law to be an expression of the will of God, He would have interpreted it in its highest possible sense rather than attempt to rescind it—having, on innumerable occasions, declared that His mission was to fulfil and not to abrogate the law.

Milton's contention that "the occasion which induced our Saviour to speak of divorce, was either to convince the extravagance of the Pharisees in that point, or to give a sharp and deterrent answer to a tempting question," [3] is at least partly justified, and he rightly reminds us "that we are not to repose all upon the literal terms of so many words, many instances will teach us." [4] On one occasion, he continues, Jesus "censures an unchaste look as adultery already committed; another time he passes over actual adultery with less reproof than for an unchaste look; not so openly condemning secret weakness, as open malice: so here he may be justly thought to have given this rigid sentence against divorce, not to cut off remedy from a good man . . . but to lay a bridle upon the bold abuses of these

[1] Milton, J., *The Doctrine and Discipline of Divorce* (Sherwood, 1820), bk. ii., p. 100.

[2] *Ibid.* bk. ii., p. 99.

[3] *Ibid.* bk. ii., p. 70.

[4] *Ibid.*

overweening rabbies; which he could not more effectually do, than by a countersway of restraint curbing their wild exhorbitance almost to the other extreme." [1]

For ourselves, we doubt if Milton's view of the matter is exhaustive. That Jesus was largely adopting an *argumentum ad hominem* may be granted; that He was addressing a special rebuke to the hypocritical Pharisees is highly probable, and that He did not intend to rescind the Mosaic law is fairly certain, but it would seem also that He wished to draw His hearers' attention to a fact that had escaped their notice, namely, that it was God's will "in the beginning" that marriage should be an ideal relationship between two persons of opposite sex who would be helps meet for each other, and that such a union should be indissoluble. Jesus, however, obviously recognized that many marriages were anything but ideal—that human imperfection defeated God's original purpose—and considered that the Mosaic divorce law was God's concession to human frailty. Thus, the phrase, "Moses because of the hardness of your hearts suffered you to put away your wives," might be paraphrased as "God (through Moses) because of human imperfection, granted the concession of divorce in order that men might escape from marriages which would never have been contracted had human beings been perfect."

Assuming this actually was the view of Jesus, it will at once be apparent that the only real difference between this viewpoint and that of a modern theist is that, whereas Jesus believed man to have been originally created perfect, the modern theist believes him to have evolved from lowlier organisms and to be still in the process of attaining perfection. This distinction, however, in no way affects Jesus' intuitive grasp of God's probable intent in the creation of the sexes.

Having enunciated the ideal, and perhaps also, as Milton suggests, administered an especial rebuke to the tempting Pharisees, Jesus forthwith proceeds to enunciate and define the Mosaic law, and this He does, not as a partisan of either of the

[1] Milton, *loc. cit.*, bk. ii., p. 70.

rival schools of Shammai or Hillel, or with regard for those fine legal and ceremonial points beloved of the Scribes and Pharisees, but with a direct intuition of the highest possible interpretation of the law. Thus, addressing his hearers with that full weight of authority which was so characteristic of an acknowledged Jewish prophet, he says:

"I say unto you, Whoseover shall put away his wife, except it be for fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery." [1]

This particular text constitutes a veritable bone of contention among many theologians, who maintain—chiefly on the ground that Mark's gospel does not contain the qualifying clause "except it be for fornication," and also because the Markan narrative was admittedly composed at an earlier date than was the "Matthaean"—that the exception relative to fornication is not primitive, but a gloss on the Markan tradition. But this is by no means certain, and it is more than probable that the wish is here father to the thought—that theologians having committed themselves to a doctrine of indissoluble matrimony are only too willing to question the authenticity of any qualifying proviso to the dogma. Moreover, no less an authority than Dr. Sanday maintains that, *if* the exception is a gloss, it was most certainly made by the first evangelist himself.[2]

The first evangelist, who assumes the name and claims the authority of Matthew, however, had, as we have seen, more reliable data to draw upon for the gospel *of* Jesus than had John Mark, and is thus likely to be more accurate in relating this encounter between Jesus and the Pharisees. Moreover, it so happens that we are not merely left with a choice between two unsupported and conflicting authorities, for there exists an independent witness who indirectly testifies that Jesus permitted divorce in certain circumstances. This witness is no less a person than St. Paul, who held that where one of the partners in a

[1] Matthew, ch. xix., v. 9.

[2] Sanday, in *Evidence of the Roy. Comm. on Div. and Mat. Causes*, vol. iii.

marriage was a Christian and the other a heathen, divorce was permissible—explicitly informing the Corinthian Christians that "a brother or a sister is not under bondage in such cases." [1] This advice, moreover, was given not later than A.D. 55, that is while the majority of the original disciples of Jesus, who personally heard His pronouncement on divorce, were still alive and recognized as the "pillars" of the Church at Jerusalem, hence it is certain that, if Paul's teaching had not been in accordance with that of Jesus, the apostles, and particularly Peter, would have challenged his teaching on divorce in precisely the same way as they challenged his teaching on circumcision.[2] The fact that St. Paul's sanction of divorce went unchallenged, therefore, practically proves that Jesus also sanctioned divorce, and enhances the authenticity of the "Matthaean" account.

Assuming then, as perforce we must, that Jesus explicitly sanctioned divorce in the case of fornication, it remains for us to endeavour to discover what this particular word—which Gibbon described as being "flexible to any interpretation that the wisdom of legislature can demand"—actually connoted. The text under discussion contains two words, namely, "fornication" and "adultery," which are now loosely taken as meaning the same thing, but it is quite apparent that Jesus meant to discriminate between them. In the original Greek, these two words are written "πορνεία" and "μοιχεία" respectively, and "πορνεία" (porneia), or fornication, signifies sexual intercourse with a prostitute. Many eminent authorities, however, are of the opinion that the word "porneia" is merely a loose translation of an unknown Aramaic word used by Jesus, and hold that, whatever the meaning of the original word may have been, it could not possibly have been limited to carnal sin.[3]

[1] 1 Cor., ch. vii., v. 15.

[2] Acts, ch. xv., vv. 1 ff.

[3] *Note.*—Many ecclesiastics, both Anglican and Roman, have sought to limit the meaning of the word to pre-nuptial unchastity. The ingenuity and sophistry, however, which enables them to maintain that, although post-nuptial offences are powerless to void a union, pre-nuptial misdemeanours constitute a ground for annulment, renders it extremely difficult to accredit them with genuine intellectual integrity.

Thus, dealing with this particular word, Milton writes: "Grotius . . . shews . . . that fornication is taken in scripture, as tends to plain contempt of the husband, and proves it out of Judges xix. 2, where the Levite's wife is said to have played the whore against him; which Josephus and the Septuagint, with the Chaldean, interpret only of stubbornness and rebellion against her husband: and this I add, that Kimchi, and the two other rabbies who gloss the text, are of the same opinion. Gerson reasons that had it been a whoredom, a Jew and a Levite would have disdained to fetch her again: And this I shall contribute, that had it been a whoredom, she would have chosen any other place to run to than her father's house, it being so infamous for a Hebrew woman to play the harlot, and so opprobrious to the parents. Fornication then in this place of the Judges is understood for stubborn disobedience against the husband, and not for adultery." [1]

Rebellion against the husband, in the case referred to by Milton, necessarily implied disloyalty, and as this was characterized as fornication it is highly probable that the original Hebrew word for this signified disloyalty in general, and not merely physical disloyalty. This is rendered practically certain by the fact that, in Exodus, disloyalty to Yahveh is explicitly characterized as fornication, it being stated that the prohibition of intermarriage between Jewish men and heathen women was made with the definite intention of lessening the temptation of the men to go "a whoring after their (the heathen's) gods." [2] Similarly, in the New Testament, St. Paul regarded intermarriage between Christians and heathens with disfavour, holding that disloyalty to the Christian faith was even more reprehensible than was disloyalty to a spouse, and characterizing both as fornication.

Further, he not only advised Christians not to marry heathens, but actually held that where such a mixed marriage had taken place the Christian husband or wife could legitimately repudiate

[1] Milton, *loc. cit.*, bk. ii., pp. 136, 137.

[2] Exodus, ch. xxxiv., v. 16.

a heathen partner who refused to embrace the Christian faith. This means he firmly believed that spiritual or religious incompatibility constituted adequate grounds for divorce, as witness the following:

"Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness? And what concord hath Christ with Belial? or what part hath he that believeth with an infidel? . . . Wherefore come out from among them, and be ye separate, saith the Lord, and touch not the unclean thing."[1]

At the risk of tedious repetition we must again remind our readers that this Pauline teaching—that religious or spiritual incompatibility constituted justifiable grounds for divorce—inferentially met with the full approval of the Apostles who personally heard the original teaching of Jesus, and therefore constitutes a strong argument in favour of the belief that the word "fornication" used by Him actually covered cases of spiritual and mental incompatibility and disloyalty in addition to physical disloyalty, and that it is even possible that spiritual and mental unfaithfulness took precedence over unfaithfulness to the marriage bed.

That this is not merely suppositional is apparent from the general tenor of the teaching of Jesus, for the consistent ethical standard which marked His whole career must inevitably take precedence over any isolated utterance, and particularly so if the isolated dicta contain an element of ambiguity. Now if Jesus, as is sometimes alleged, refused to sanction divorce for any offence other than adultery, it inevitably follows that He considered sexual intercourse with anyone other than a lawful spouse the most heinous crime that it was possible to commit. But not only is there no evidence that this was His view, but there is irrefutable evidence to the contrary. In no case did He address such bitter invectives to an adulterer or adulteress as He did, for example, to the hypocritical Scribes and Pharisees,[2]

[1] 2 Cor., ch. vi., vv. 14, 15, 17.

[2] Matt., ch. xxiii; Luke, ch. xi., vv. 38 ff.

or to those who wilfully offended little children,[1] and while He refrained from condemning the woman taken in adultery, He poured scorn upon her gloating accusers, whose hollow self-righteousness and open malice were, in His opinion, infinitely more reprehensible than the unfortunate woman's lapse from virtue.[2]

Again, in no case did Jesus suggest that adultery was unforgiveable, yet He definitely declared that blasphemy against the Holy Spirit [3] (*i.e.* the contemptuous stifling and disregard of the divine inner voice of conscience) was so. There were also a number of other offences which He found difficult to forgive, namely, hardness of heart, impenitence, hypocrisy, rebellion against the Kingdom of God, wasted talents (cf. parable of the talents),[4] and a profitless life (cf. discourse on the vine).[5] Jesus, in brief, placed the service of God and of His fellow-men before everything else in life, and upon innumerable occasions stated quite clearly that He demanded the same precedence for these ideals in the lives of His followers. No Utopian ever laboured for the advent of the ideal age one half so zealously as Jesus laboured for the advent of the New Age, or the Kingdom of God, and He demanded the same zeal of His disciples. The Theocracy had to come first. Members, if necessary, were required to forsake all and follow Him in its service; indeed, He once emphatically declared that "every one that hath forsaken houses, or brethren, or sisters, or father, or mother, or wife, or children, or lands, for my name's sake, shall receive an hundredfold, and shall inherit everlasting life"; [6] thus implicitly stating that matrimonial bonds might legitimately be severed if their observance detracted from the convert's service to the Kingdom.

There is thus cumulative evidence to show that while Jesus regarded anything in the marriage tie that militated against

[1] Mark, ch. ix., v. 42.

[2] John, ch. viii., vv. 3-11 (cf. His treatment of Mary Magdalene, Luke, ch. vii., vv. 37 ff.).

[3] Matt., ch. xii., vv. 31, 32.

[4] Matt., ch. xxv., vv. 14-30.

[5] John, ch. xv., vv. 2-8.

[6] Matt., ch. xix., v. 29.

full service to God and to humanity as vindicating divorce, it is highly probable that He would have counselled forgiveness for a transient lapse into physical incontinence—particularly if it were followed by true penitence—hence we are compelled to assume that the offence which He characterized as fornication must have been something that, to His mind, was more intolerable than adultery—something in fact that precluded the possibility of a marriage maturing into an ideal human society; something that prevented the partners from being true helpmeets for each other, or rendered impossible a true union of body, mind, and spirit—in a word, fundamental incompatibility.

That the word "fornication" involved something of a very serious nature—more serious probably than unfaithfulness to the marriage bed—is apparent from the dismay expressed by His disciples, who, upon hearing His edict, immediately declared: "If the case of the man be so with his wife, it is not good to marry." [1]

Only one interpretation can be read into this spontaneous manifestation of consternation, namely, that in a country where a man's authority over his wife was almost unquestioned and where divorces frequently took place at caprice, and certainly for any serious offence, the ruling of Jesus placed such an unprecedented limitation upon a man's right to dismiss his wife as to make the disciples seriously question whether or not, in the face of such a restriction, it was advisable to marry. It may thus legitimately be assumed that the term "fornication" involved something in the nature of persistent disloyalty, or incurable incompatibility, and that He who bade His disciples forgive his brother's offences until seventy times seven, also advocated the forgiveness of the offences of a wife, and approved of her repudiation only when it became apparent that a peaceable and spiritually fruitful union was an utter impossibility.

Jesus, however, apparently recognized that this was a counsel of perfection, since, upon hearing His disciples' startled protest, He admitted:

[1] Matt., ch. xix., v. 10.

" All men cannot receive this saying, save they to whom it is given. For there are some eunuchs, which were so born from their mother's womb : and there are some eunuchs, which were made eunuchs of men : and there be eunuchs, which have made themselves eunuchs for the kingdom of heaven's sake. He that is able to receive it, let him receive it." [1]

A free paraphrase of this answer might read somewhat as follows: " All men are not able to live up to this ideal, but only those of you who have been given a share of my spirit or idealism. For some men who are celibates, are so by nature, having no inclination or aptitude for marriage; others are celibates owing to circumstances over which they have no control, while there are yet other celibates who have forsworn matrimony in order that they may devote themselves the more completely to the kingdom of heaven. Those who feel called to such an abstention from matrimony are justified in their action, while those others who experience no such imperative urge are justified in marrying."

It would have been thought that anyone possessing the slightest familiarity with Biblical phraseology and hyperbole, and particularly with the picturesque idiom frequently used by Jesus, would have no difficulty in identifying the word " eunuch " with celibacy—the wording of the disciples' protest makes this apparent—yet so great has been the passion for the printed word that several of the early Fathers, including Origen, actually practised self-mutilation in order to make themselves literal eunuchs for the kingdom of heaven's sake, while a sect in Russia, called the Skopets, founded by two self-mutilated peasants in the year A.D. 1772, numbered over five thousand followers as recently as in the last century. When so plain a statement of Jesus can be so wildly misapplied, it is but scant wonder that the ambiguous word " fornication " has been so widely misinterpreted.

We have now completed our critical examination of the teaching of Jesus on divorce in the main " Matthaean " narra-

[1] Matt., ch. xix., vv. 11, 12.

tive, and it remains only to state that the parallel narrative in Mark is substantially identical save for the excision of the ruling on fornication.[1] Luke's account of the teaching of Jesus on this subject is obviously a précis of the Markan account; is very meagre, and is inserted indiscriminately, since it bears no relation to either the preceding or succeeding verses;[2] while the sole remaining dicta of Jesus on divorce is to be found in "Matthew's" account of the Sermon on the Mount, which reads:

> "It hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement: But I say unto you, That whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced committeth adultery."[3]

It will here be noted that Matthew v. 32 is practically a verbal repetition of Matthew xix. 9, and thus shows that the only free teaching on divorce given by Jesus is in exact agreement with His reply to the tempting Pharisees on the same subject. It is significant, moreover, that in the Sermon on the Mount Jesus is engaged in interpreting and extending the spiritual meaning of the Mosaic law, reproving the practices of the contemporary Scribes and Pharisees and rabbis who, while obeying the letter of the law, violate its spirit, and in laying down certain ideal principles of human conduct. He speaks throughout with the authority invariably adopted by the greater prophets, and, in dealing with the older interpretations of the law and what He considers to be the correct spiritual interpretation, He invariably uses the formula, "it was said by them of old time . . . but I say unto you."

Not once, however, is the Mosaic law repudiated, instead it is always enriched with some new spiritual insight and significance. Thus, in dealing with the sixth commandment, He says:

[1] Mark, ch. x., vv. 1-12.

[2] Luke, ch. xvi., v. 18.

[3] Matthew, ch. v., vv. 31, 32.

"Ye have heard that it was said by them of old time, Thou shalt not kill. . . . But I say unto you, That whosoever is angry with his brother without a cause shall be in danger of the judgment." [1]

while of the seventh He declares:

"It was said by them of old time, Thou shalt not commit adultery: But I say unto you, That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart." [2]

In both these cases the old law still stands, but it is extended, for while murder and adultery are still regarded as sins, so also are unjustifiable anger and lustful imaginations. Similarly, Jesus, while not forbidding such divorce as was sanctioned by the Mosaic law, points out that the man who puts his wife away for any cause except fornication causes her, if she remarries (this is obviously implied), to commit adultery, and it may legitimately be assumed that her adultery lies in the fact that she is forced into a union with a second husband despite the fact that the true bond uniting her to her first husband still holds, not having been broken by fornication—which fornication we must assume to be something in the nature of a radical mental, spiritual, or moral incompatibility which either irrevocably destroys the matrimonial bond or precludes its development.

In this connection Milton reminds us that "Because marriage is not a mere carnal coition, but a human society; where that cannot reasonably be had, there can be no true matrimony," [3] and further adds, "Nothing more hinders and disturbs the whole life of a Christian than a matrimony found to be incurably unfit," [4] and it scarcely need be pointed out that it is highly improbable that Jesus entertained a less high ideal of matrimony than did Milton.

To sum up our examination of the teaching of Jesus on divorce, then, we may legitimately assume that He held *(a)* that ideal marriage, that is to say, a marriage in which the two partners are true helpmeets for each other, such as God purposed

[1] Matthew, ch. v., vv. 21, 22.
[2] *Ibid.*, ch. v., vv. 27-8.
[3] Milton, *loc. cit.*, bk. i., p. 62.
[4] *Ibid.*, bk. i., p. 41.

when He created the sexes, was indissoluble, (*b*) that where either of the partners was guilty of fornication this ideal union was automatically dissolved, thus implying that the partners were no longer helpmeets for each other, and that fornication must have been something analogous to strong incompatibility or persistent disloyalty, (*c*) that divorce for any other cause constituted the sin of adultery, and (*d*) He fully recognized that although He had enunciated an ideal which every man should strive to attain, such an ideal was nevertheless beyond the attainment of many persons owing to human imperfections.

Undoubtedly many clerics and theologians will radically disagree with these conclusions, but it must at least be admitted that they are backed by greater scriptural authority and are more consonant with the general spirit of the teaching of Jesus than is the old orthodox doctrine that marriage is indissoluble excepting only in the case of adultery. Indeed, if the official ecclesiastical doctrine of the indissolubility of marriage was enforceable modern men and women would have far more cause than the Apostles to declare "it is good not to marry." A conclusion of this sort must necessarily lead to the conviction that the Creator, if such a Being exists, is nothing less than a divine despot who has fixed arbitrary rules for human conduct with an utter disregard for the well-being of humanity, and there can be but scant doubt that it is the widespread belief that Christianity, as professed by the Churches, really does seem to lend colour to this idea, which has been chiefly responsible for what "anyone with the experience of, say, the last 40 or 50 years must have noticed, namely, the gradual but increasing decline of ecclesiastical ideas among the laity . . . and . . . that the influence of the clergy over the intellectual life of the nation has been constantly declining." [1]

The idea, however, is entirely anti-christian, and utterly opposed to the teaching of Jesus, who constantly taught that God desired only the true welfare of His children, and emphatically pointed out that even the Sabbath was made for man and not

[1] Lord Gorell, in *Evidence of the Roy. Comm. on Divorce*, vol. iii., p. 544.

man for the Sabbath. Milton rightly regards the institution of marriage as being subject to no less liberal a treatment than the institution of the Sabbath, and writes, "Shall we be more severe in paraphrasing the considerate and tender gospel, than he was in expounding the rigid and peremptory law? What was ever in all appearances less made for man, and more for God alone, than the Sabbath? yet when the good of man comes into the scales, we hear the voice of infinite goodness and benignity, that 'Sabbath was made for man, and not man for Sabbath.' What thing ever was made for man alone, and less for God, than marriage? And shall we load it with a cruel and senseless bondage utterly against both the good of man and the glory of God? Let whoso will now listen, I want neither pall nor mitre, I stay neither for ordination nor induction, but in the firm faith of a knowing Christian, which is the best and truest embodiment of the keys, I pronounce, the man, who shall bind so cruelly a good and gracious ordinance of God, hath not in that the spirit of Christ." [1]

Similarly, he writes: "What thing more instituted to the solace and delight of man than marriage? And yet the misinterpreting of some Scriptures, directed mainly against the abuses of the law of Moses, hath changed the blessing of matrimony not seldom into a familiar and cohabiting mischief; at least into a drooping and disconsolate household captivity, without refuge or redemption. So wild and ungoverned a race doth superstition run us, from one extreme of abused liberty unto the other of unmerciful restraint. For although God in the first ordering of marriage taught us to what end he did it, in words expressly implying the apt and cheerful conversation of man with woman, to comfort and refresh him against the evil of solitary life, not mentioning the purpose of generation till afterwards, as being but a secondary end in dignity, though not in necessity; yet now, if any two be but once handed in the church, and have tasted in any sort the nuptial bed, let them find themselves never so mistaken in their dispositions, through any error,

[1] Milton, *loc. cit.*, Preface, pp. 16, 17.

concealment, or misadventure, that through their different tempers, thoughts, and constitutions, they can neither be to one another a remedy against loneliness, nor live in any union or contentment all their days; yet they shall, so they be but found suitably weaponed to the least possibility of sensual enjoyment, be made, spite of antipathy, to fadge together, and combine as they may to their unspeakable wearisomeness, and despair of all social delight in the ordinance which God established to that very end. What a calamity is this, and as the wise man, if he were alive, would sigh out in his own phrase, what a 'sore evil is this under the sun.' " [1]

Those of the ecclesiastics and laity who persistently refuse to think for themselves, or to accept anything as a Christian truth that was not accepted as such by the ecclesiastics of the Dark Ages, will no doubt find grounds for ignoring the truth of Milton's views by arguing, as we ourselves have heard them argue, that the great poet, being unhappily married, was necessarily prejudiced and simply exercising his ingenuity in an effort to find an avenue of escape from his own misfortune. The imbecility of this objection would be apparent to an intelligent schoolboy. It is the very fact that he was unhappily married which enabled him to speak from actual experience of the misery that an incompatible marriage involves, while the accusation of prejudice applies far more to his opponents than it does to Milton, since they are irrevocably pledged to the unquestioning support of the mediæval dogma of indissoluble matrimony.

Nothing could be more mistaken, however, than for such persons to imagine that they can claim the full authority of the Church for their views. Many of the early Fathers, as we have aleady seen, freely admitted that marriage was dissoluble, and the Fathers of the late third and early fourth century evolved the theory of indissolubility not from conviction but for reasons of expediency. But even the mediæval Church did not adhere to the dogma. The records of papal annulments reduce the theory of indissolubility to a hollow sham and a crude hypocrisy;

[1] Milton, *loc. cit.*, Preface, pp. 16, 17.

divorces *a mensa et thoro* are nothing but complete divorces minus the right of remarriage; while the more intelligent leaders and an increasing number of the clergy of the Church of England have definitely repudiated the dogma.

Thus, in their evidence before the Royal Commission on Divorce and Matrimonial Causes, Dr. Henson (Bishop of Durham) held that the conditions of divorce should properly be determined in the light of Christian principle, with reference to the actual necessities and circumstances of men, and that the words of Jesus in Matthew and Mark are not legislative. Dr. Sanday considered that the words of Jesus, however reported, express a moral idea rather than a positive rule, and held that they did not exclude the possibility of exceptions, and that the one exception stated in Matthew need not be treated as necessarily excluding all others. Dr. Inge (Dean of St. Paul's) declared that the dogma of the absolute indissolubility of marriage could not be proved from the New Testament, and that the prohibition of divorce by Jesus (?) was absolute in expression rather than in intent. He further held that it was the duty of a Christian State to legislate with a due regard to human imperfections. Dr. Rashdall considered that the only principles binding on Christians is that the *ideal* of marriage is a lifelong monogamous union, but that no principle of religion or morality forbids divorce with the liberty of remarriage when a sufficient social advantage can be secured, while Dr. Barnes (Bishop of Birmingham) declared that the words " except for fornication " most certainly belonged to the teaching of Jesus, and that in consequence divorce (which is merely declaratory of a fact) may take place for the cause of fornication.[1]

In much the same way the Rev. Dr. Geikie-Cobb emphatically refutes the mediæval theory—held by many Church of England clerics and laymen, despite the wording of the XXV. Article of Religion—that marriage is a sacrament. These people, he writes, " do not tell us in what sense it is a sacrament. They are content for the most part to say that it is a sacrament in

[1] *Report of the Roy. Comm. on Divorce*, pp. 30-33.

which there is set out the marriage of Christ and His Church. But this is an analogy and not a sacrament. The Canon Law, which consistently exalts the carnal side of marriage, sees the outward sign of this sacrament in the marriage act itself. Hence the emphasis placed on adultery as the sole ground of divorce . . . the mediæval view is that the primary end of marriage is the procreation of children, and that mutual love is desirable but at the best a happy accident. The modern view is that mutual love is what is essential to marriage, and that it is desirable that children should confirm the love, but that their presence is secondary, not primary. It is not adultery that destroys marriage. It is the cessation of love, and of this adultery is but one of many evidential proofs." [1]

Finally, we ourselves would remind the opponents of divorce that although adultery was unquestionably regarded as a sin by Jesus, so also were covetousness, unchaste desires, uncharitableness, hypocrisy, self-righteousness, petulant anger, selfishness, malice, envy, the stifling of the voice of conscience, and a score of other human failings, and that some of these sins received far more serious condemnation than did adultery. In brief, no person can legitimately claim the authority of Jesus for the declaration that adultery is a sin so heinous as to stand absolutely alone, and any intelligent Christian can quote a score of offences that drew forth far greater condemnation from the Founder of the faith.

[1] Geikie-Cobb, W. F., Lecture given in the Caxton Hall, London, 8th Oct., 1925.

Note.—It has been my effort in this chapter to examine the teaching of Jesus on divorce and sexual morality from the viewpoint of contemporary Christianity, which assumes that its Founder was inerrant in spiritual and ethical matters. For myself, however, I am quite unable to accept this proposition, and the consensus of modern and enlightened non-ecclesiastical opinion rejects this theological dogma as untenable. That Jesus made an immense contribution—perhaps the largest ever made by any one person—to ethical and spiritual knowledge may readily be conceded, but it is entirely unwarrantable to assume that a man who was admittedly subject to the intellectual limitations of his age could at the same time be entirely free from the limitations of contemporary sexual taboos and prejudices. I am of the opinion, therefore, that if Jesus had been born in the twentieth century his views on sexual morality would be almost as greatly modified as would his views on the nature of the physical universe.—AUTHOR.

XII

THE COMPLEXITY OF MODERN MATRIMONY

We have now seen that one of the greatest ethical authorities that has yet appeared in history regarded matrimony as being essentially a human society, and it is significant that this view is entirely consonant with the facts which we have examined relative to the origin and evolution of natural marriage.

Such being the case, we are bound to conclude that a marriage which does not constitute a true human society necessarily defeats the real purpose of the institution and is therefore divorceable, and that it must be the duty of a truly civilized State to permit of divorce in such circumstances. This will be granted by most unprejudiced persons, but it will also be apparent that it is impossible to discuss incompatibility as grounds for divorce until we have reached some conclusion as to the true nature of compatibility.

This is by no means so simple as it may appear. Compatibility involves something more than mere identity of taste or temperament, in fact it does not necessarily involve this at all, for the phrase "helps meet" implies that the partners are physically, mentally, and spiritually complementary to each other; that each supplies some deficiency in the other, and that their union will necessarily enrich the existence of both. The complementary differences in the sexes from the reproductive point of view are readily recognizable, but we have seen that marriage is something more than a mere reproductive necessity, and in these days of loose talk about the *equality* of the sexes there is an increasing disposition to regard equality as synonymous with identity, and to treat as non-existent all those complementary differences in the sexes other than the physiological.

In addition to this tendency, moreover, there exist schools of extremists which tend not only to deny the equality and complementary nature of the sexes, but also to emphasize their antagonism and to proclaim the manifest inferiority of one sex and the superiority of the other. Thus, according to Mr. Anthony Ludovici, women are "a deleterious and dangerous influence on modern society. They are harmful because they exert a continuous pull downwards against the aspiring efforts of the age. . . . If therefore society is to be protected from woman's vices . . . and the deteriorating effect of woman's spiritual influence, the only practical remedy is . . . to place woman once more under man's charge." [1] Taking the opposite view, Miss Dalham writes, "That woman with her powers of maternity should be under the control and at the mercy of another being, her inferior at that, is altogether degrading. Men are becoming more and more an adjunct of the house, not the prime factor." [2]

In the face of such conflicting views it is obviously impossible to obtain any unanimity of opinion as to what constitutes that diverse equality of the sexes which must necessarily exist if ideal marriage, as we have maintained, is a union of two persons who are complementary to each other. It would seem, therefore, that the only way to prove that the sexes actually differ and are complementary, apart from procreative specialization, is to appeal to the unbiassed evidence of biology.

If we examine the algæ *Protococcus*, a minute organism commonly found on tree trunks, pools, and wells, we shall be able to observe the simplest characteristics of life. The organism is mobile, assimilates nutriment, excretes waste, grows, and reproduces itself by simple fission, and all these activities are dependent upon the assimilation of nutriment and its conversion by *metabolism* into bio-energy. This metabolism is of two kinds, *anabolic* and *katabolic*: the first is conservative and involves the storing up of energy in the process of growth, or the building up of bodily tissue; the second is disruptive and involves

[1] Ludovici, A. M., *Woman: A Vindication*, pp. 335, 345.
[2] Dalham, M., *Mere Man*.

the expenditure of energy in such functions as subdivision, excretion, and locomotion. The preservation of life is dependent upon a balance being struck between the two processes, but the proportion between them is rarely constant at any one particular stage of life.

The *Protococcus* is an asexual organism, that is to say it possesses no sex, and reproduces itself by subdivision into a number of equal units or spores, but if we turn from this elementary form of life and examine a higher species of algæ, the *Ectocarpus*, we may observe a significant fact at the very threshold of sexual dimorphism (sex-differentiation). This organism also reproduces itself by subdivision into a number of spores. In this case, however, the spores are no longer of equal size, for two distinctly different types are released from separate parts of the parent organism. "We have here," write Professors Geddes and Thomson, "a very distinct beginning of the distinction between male and female elements. The comparatively sluggish, more nutritive, preponderatingly anabolic cells, which soon settle down—are female; the more mobile, finally more exhausted and emphatically katabolic cells—are male." [1]

Sexual dimorphism is carried yet a stage further in another algæ, the *Cutleria*. In the fission of this organism "two kinds of units result, which must unite with one another if development is to take place, but these units arise from perfectly distinct sources in the parent plant. The larger less mobile cells, which soon come to rest, are fertilized by the smaller more active units. The more anabolic or female cells are fertilized by the more katabolic or male cells, which have now gone too far for the possibility of independent development." [2]

It will thus be seen that males and females differ from each other in diathesis (habit of body) from the very beginning of sexual dimorphism, and this distinction, moreover, becomes increasingly more marked as we ascend the scale of organic evolution. Thus the female cochineal insect spends most of her life a mere quiescent gall on the cactus plant, whereas the

[1] Geddes and Thomson, *Evolution of Sex*, p. 137. [2] *Ibid.* p. 137.

more katabolic male is smaller, more active, restless, and enjoys a much shorter life. Among most animals, however, the primitive distinction in the sizes of the two sexes is lost, and although the females invariably accumulate more fatty tissue than do the males, the larger skeleton and muscles of the males usually give them the advantage in size and weight.

Other bodily distinctions in the two sexes which are due to differences in diathesis are those secondary sexual characteristics which we have already noted as being conspicuous among the males of the higher organisms. These characteristics have been shown by Messrs. Thomson, Geddes, Brooks, Mivart, and others to be due to the predominant katabolism of the males. In other words, the males grow elaborate plumage, horns, dewlaps, manes, and so on, simply because they expend their bionic energy in a different way; because where the female conserves her surplus energy, the male expends it in variability and creativeness. This also accounts for the fact that the males are more dominant, pugnacious, emotional, and erratic than the females, and these bodily and temperamental differences are further accentuated by the respective rôles played in courtship and copulation.

"When the male has found the female," writes Darwin, "he sometimes absolutely requires prehensile organs to hold her. . . . The males of many oceanic crustaceans, when adult, have their legs and antennæ modified in an extraordinary manner for the prehension of the female. . . . Some animals extremely low in the scale have been modified for this same purpose; thus the males of certain parasite worms, when fully grown, have the terminal part of their bodies roughened like a rasp, and with this they coil round and permanently hold the females."[1] These facts, together with the further fact that it is the male who invariably seeks out and stimulates the ardour of the female, emphasize the dominant and initiative characteristics of the male and the passive and sequacious characteristics of the female.

[1] Darwin, *The Descent of Man*, p. 323.

Another factor tending to marked mental and temperamental differences in the sexes is the contrast presented by energy expenditure. "The female," writes Darwin, "has to expend much more organic matter in the formation of her ova, whereas the male expends much more force in fierce contests with his rivals, in exerting his voice, in wandering about in search of the females, pouring out odoriferous secretions, etc.: and this expenditure is generally concentrated within a short period. . . . On the whole the expenditure of matter and force by the two sexes is probably nearly equal, though effected in very different ways and at different rates."[1] This difference in energy expenditure manifests itself not only in strictly sexual activities and functions but also in all the other activities of the sexes. It accounts for the fact, which we have already noted, that among primitive peoples the men have spasmodic bursts of energy in hunting and fighting, followed by periods of sheer "sitting about," while the women, though seeming to do an unfair share of manual labour, really expend their energy at a far more even rate than do the men. Similarly, it also accounts for the fact that women, in modern highly civilized communities, are comparatively slow workers but are generally conscientious and painstaking, whereas men are usually quicker, and—because of their ability to concentrate a greater amount of surplus energy—more creative and original, but are usually less consistent, and are not so efficient and conscientious in routine and detail work.

It will thus be seen that men, owing to their physiological characteristics, are predominantly active, energetic, eager, passionate, and variable, and that women are predominantly passive, conservative, phlegmatic, and stable. Similarly, in consequence of their respective rôles in courtship and copula, men tend to develop courage, pugnacity, impetuosity, originality, and hegemony, whereas women develop dependence, patience, imitativeness, coyness, and sequaciousness. Consequently, men's characteristic vices include ruthlessness and brutality, while women's include deceitfulness and irresponsibility. In

[1] Darwin, *The Descent of Man*, p. 346.

exceptional cases we find effeminate men and masculine women, but these individuals are not strictly normal and their peculiarities are due to recessive masculinity and femininity respectively.

We can now appreciate why it is that man is invariably the leader, administrator, and creative genius in life—why practically all the great rulers, religious leaders, thinkers, poets, painters, sculptors, writers, musicians, philosophers, inventors, scientists, and reformers have been men. "It is not," as Miss Storm Jameson rightly remarks, "because women have been kept so busy cooking and sweeping that they have had no time to lift their eyes to the skies. You could stifle that spirit in one woman or in a generation of women, but not—had it ever existed—in a whole sex and for centuries. Women are not in any sense inventive. . . . Man is the inventive animal, by the same token that he is the romantic. It was the mind that invented the magic carpet and the chariot of Venus drawn by doves which invented aeroplanes." [1]

But although man has played such a conspicuous and dominant rôle in the history of civilization, woman has played a no less necessary, if perhaps less conspicuous part. It is her sequaciousness that has stimulated and developed masculine hegemony; her receptivity that has called out masculine originality, and her dependence that has indirectly been responsible for the very fabric of society. Always she remained central. She and her mate constituted the first true human society; she and her offspring formed the first social community, and the history of civilization is largely the history of the extension of family rights and obligations to the clan, tribe, nation, empire, and ultimately to humanity itself. Thus, in the words of Professors Geddes and Thomson, "Males and females, like the sex-elements, are mutually dependent, and that not merely because they are males or females, but also in functions not directly associated with those of sex. To dispute whether males or females are the

[1] Jameson, Storm, "What Every Woman Knows," in the *Evening Standard*, of 1st Feb., 1927.

higher, is like disputing the relative superiority of animals and plants. Each is higher in its own way, and the two are complementary." [1]

Two outstanding examples of the dependence of the sexes upon each other, and particularly of man's dependence upon woman, which have become extraordinarily complex with the development of civilization, are to be found in their physical and mental requirements. Civilized man, as we have already shown, is far more erotic than his savage ancestors, and there is considerable evidence to show that copula now subserves a much higher function than that of mere reproduction. In point of fact, copula, from the biological point of view, is by no means necessary to reproduction, and its development took place at a comparatively late date in the history of the evolution of organisms. One of the advantages of sexual over asexual reproduction was undoubtedly the attainment of greater variability in offspring —thus permitting of the evolution of higher and more complex organisms. Similarly, one of the ends achieved by reproduction by copula was the fertilization of ova within the uterus, this being rendered necessary by the fact that the fœtus of a highly complex organism requires a lengthy period of development in intimate association with the mother. It would be absurd, however, to assume that any particular bodily function can subserve only a single end.

The immediate end achieved by the development in organisms of a central cerebral system was the centralization of those impressions received from external stimuli and the better coordination of the animal's muscles in its reactions to these stimuli; in a word, it promoted the better adaptation of the organism to its environment. But if this was the only end served it follows that all the great mental and spiritual achievements of man's brain—other than those actually promoting his animal well-being—are mere useless by-products and chance epiphenomena. Few thinking people are prepared to admit this, for rightly or wrongly we assume that the Universe is

[1] Geddes and Thomson, *Evolution of Sex*, p. 289.

rational; that it is animated by some intelligible purpose, and that this purpose is somehow bound up with the evolution of beings possessing highly complex mental and spiritual attributes. Thus, to quote only a few random opinions: the Earl of Balfour maintains that we know far too much about matter nowadays to be materialists; [1] Sir Arthur Keith declares that we are bound to postulate some principle of regulation to explain how the myriads of cells in a creature combine to form a single complex organism,[2] while Professor J. S. Haldane reminds us that "the idea of life is nearer to reality than the ideas of matter and energy." [3]

It is legitimate to assume, therefore, that copula may contribute to individual psychical development and well-being in addition to organic complexity. In point of fact, this is actually demonstrable. Rut, which among the higher animals involves the inseparable acts of copula and courtship, in addition to securing reproduction also furnishes that emotional and physiological bond which ensures the association of the parents for a sufficiently long period to tide over the actual birth and infantile helplessness of the offspring. But it does even more than this. It actually renews and vivifies all the physiological and psychical activities of the creature, so that during the rutting season each of the sexes displays maximal vitality and experiences the greatest enjoyment of life. In the males, secondary sexual characteristics achieve their maximal development; vitality overflows; pugnacity, eagerness, courage, and initiative are stimulated, and in the ardour of courtship the beginnings of artistic creativeness find expression in personal adornment, song, antic, and deeds of daring. Similarly, in the female, her natural psychical attributes find full scope. Her coyness, sequaciousness, and love of dependence are exercised to the full, and her vitality and well-being, though expressed in a different way, are as complete as are those of the male.

[1] Balfour, Earl of, *Presidential Address to the British Association.*

[2] Keith, Sir. A., *Huxley Lecture*, 1923; reprinted in sup. to *Nature*, 18th Aug., 1923.

[3] Haldane, J. S., *Mechanism, Life, and Personality*, p. 64.

In rut, writes Professor Letourneau, "The psychic faculties of the animal, whether great or small, are then over-excited, and rise above their ordinary level. . . . At this period the wildest and most unsociable species can no longer endure solitude; both males and females seek each other. . . . Each period of rut is for animals a sort of puberty. The hair, the plumage, and the scales often assume rich tints which afterwards disappear. . . . It is with a veritable frenzy that sexual union is accomplished among certain species." [1] Sex, then, as Mr. H. G. Wells rightly points out, is "not only a renewal of life in the species," but is also "a renewal of energy in the individual." [2]

These truths, however, apply not only to animals but also to man. "If we are willing to descend to the foundations of things," writes Letourneau, "we find that human love is essentially rut in an intelligent being. *It exalts all those vital forces of the man* just as rut over-excites those of the animal. If it seems to differ extremely from it, this is simply because in man the procreative need . . . in radiating from highly developed nervous centres, awakens and sets in commotion an entire psychical life unknown to the animal." [3]

This undoubtedly explains the relationship between genius and sexual activity. Society, indeed, has long recognized the fact that a great creative genius is invariably highly sexed, but it never seems to have realized that creative genius is at least partially dependent upon high sexual potentiality—the true *libido* of Freud.[4] Apparent exceptions do not invalidate this fact,

[1] Letourneau, *loc. cit.*, p. 8.

[2] Wells, H. G., *The Secret Places of the Heart.*

[3] Letourneau, *loc. cit.*, p. 9.

[4] *Note.*—Commenting upon the high sexual potentiality among men of genius, the late M. Romain Rolland wrote: "He (Jean Christolphe) was more the victim of passion than an ordinary man. It is the necessity of the nature of men of genius. Even the most chaste, like Beethoven and Bürchner, must always be in love; every human capacity is raised to a higher degree in them, and as, in them, every human capacity is seized on by the imagination, their minds are a prey to a continuous succession of passions. . . . A great man is more of a child than a lesser man, he needs to confide in a woman, to lay his head in the soft hands of the beloved, in the folds of the lap of her gown" (*Jean Christolphe,* vol. iv. p. 318).

for high sexual potentiality does not necessarily involve promiscuity, and may even be inhibited by strong religious or moral scruples. Few if any geniuses, however, have succeeded in suppressing sex without impairing both health and ability. But the genius differs only in degree and not in kind from the ordinary man and woman, and the old catch-phrase "No vices, no virtues," contains an element of profound truth, if sex be regarded as a vice. In brief, the mental and physical potentialities of the ordinary man and woman are definitely related to their sexual potentiality, and it is unquestionable that a full mental and physical life depends upon a healthy sexual life.

"I do not believe," writes Mr. H. G. Wells, "that a normal man can go on living a full mental life in a state of sexual isolation." [1] This is unquestionably true, and is proved not only by individual experience, but necessarily follows from the facts which we have been examining. A great ecclesiastic or saint may possibly be a strict celibate, but such a person is rarely a great creative genius, or conspicuous for his diversity of interests, full healthy life, and wide human sympathies. Again, a certain number of creative geniuses may have been bachelors, but it is highly dubious if half a dozen could be collected from the annals of history who have lived strict celibate lives. A healthy sex-life, then, is an individual as well as a racial necessity, but it is here important to stress the fact that a full sex-life involves not only copula but also courtship, and that the actual sex-act only yields its maximal benefits when it forms the natural sequel and consummation of the psychical activities inseparable from courtship.

"We must recognize the fact that reproductive life must be connected with violent stimulation," writes Mr. Thomas. "The female," in a state of nature, "will not submit to seizure except in a high state of nervous excitation (as is seen especially well in the wooing of birds), while the male must conduct himself in such a way as to manipulate the female; and, as the more active agent, he develops a marvellous display of technique for

[1] Wells, H. G., *The World of William Clissold*, p. 759.

this purpose. This is offset by the coyness and coquetry of the female, by which she attracts and fascinates the male, and practises upon him to induce a corresponding state of nervous excitation." [1] It is here apparent that the stimulation and vivification of all the psychical and physiological activities which render the sexual act so beneficial and necessary to a healthy physical and mental life lie even more in the preliminary wooing than in the consummating act of coitus itself, and this, apart from any moral grounds, is the main reason why intercourse with a prostitute is utterly valueless. Unfortunately, however, the sexual relationships of many married couples yield as little benefit as does the association of a man with a woman of the streets, simply because the man forgets, or is unaware of the fact, and the woman, either from ignorance or natural reticence, does not remind him, that "a man does not woo and win a woman once and for all when he marries her," but "*must woo her before every separate act of coitus*, for each act corresponds to a marriage as other creatures know it." [2]

Women benefit no less than do men by leading a healthy sex-life. "For most of us sexual life is a necessity," writes Mr. Wells, "a real source of energy, self-confidence and creative power. It is an essential and perhaps the fundamental substance of our existence. . . . This is, I am convinced, as true for an ordinary woman as for an ordinary man." [3] The widespread but entirely fallacious idea that women do not possess sexual passions or sexual needs is probably due (*a*) to the fact that their passion does not express itself in initiation but in responsiveness; (*b*) that their response and reaction is slow compared with the reactions of the man—mainly because "so deep-seated, so profound, are woman's complex sex-instincts as well as her organs, that in rousing them the man is rousing her whole body and soul" [4] (*c*) because her sex-life is subject to periodic

[1] Thomas, W., *Sex and Society*, p. 314.

[2] Stopes, Dr. M., *Married Love*, p. 88.

[3] Wells, H. G., *The World of William Clissold*, p. 759.

[4] Stopes, Dr. M., *loc. cit.*, p. 93.

fluctuations; and (*d*) because "ascetic ecclesiasticism, heaping opprobrium upon sex-needs and sex-functions, systematically deprecating normal life as less pleasing to God than the life of mortification . . . originated that policy of suppression . . . that making unclean of things clean and wholesome in themselves that eventually turned our current civilization into what Mr. H. G. Wells calls 'a sexual lunatic,'" [1] and has inhibited the sex-life of many women through generations of sheer repression.

Any field naturalist or keeper of domestic animals, or any traveller familiar with primitive peoples, is well acquainted with the fact that the sexual ardour of the female, when once stimulated, fully matches that of the male. Even among European women, moreover, despite the evil influences of ecclesiastical and puritanical repression, "it remains a fact that the average normal woman is as capable of intense sexual desire and its intense satisfaction as the average normal man," [2] while Dr. Marie Stopes declares that many women, and especially wives temporarily separated from their husbands, experience "at particular times, an accession of longing for the close physical union of the final sex-act." [3]

In point of fact, a full sex-life is as absolutely essential to the physical well-being of a normal modern woman—whose emotional needs are greater than were those of her primitive ancestors—as it is to the health of a normal man. Thus, according to Dr. Courtenay Beale, "A normal sex-life is among the chief health-promoting agencies. . . . Vitality is heightened, equipoise established or regained, moodiness and nervous irritation allayed. . . . But it has to be noted that these healing and wholesome effects follow upon union only when the act has been properly completed—*i.e.* when both partners in it have experienced that climax of sensory ecstasy which is technically known as the orgasm." [4] Dr. Beale, moreover, is as emphatic about the evils of sexual repression as he is about the benefits of

[1] Beale, G. C., *Wise Wedlock*, p. 15.
[2] *Ibid.* p. 51.
[3] Stopes, Dr. M., *loc. cit.*, p. 62.
[4] Beale, *loc. cit.*, p. 61.

healthy sex-life. "Innumerable women whose sex-needs have never been stirred into conscious demand for satisfaction," he writes, "have to pay in ill-health for the non-satisfaction of these very needs. Insomnia, neurasthenia, uterine ailments, even malignant growths, are among the penalties thus exacted; '*the sad conviction is forced upon me as a physician,*' writes a medical man, '*that the chaste morality of women not infrequently revenges itself in the cruellest forms of disease.*' "[1]

A healthy sex-life, moreover, is as psychically as it is physically beneficial to a woman. In being wooed, and in her reciprocal wooing, all her truly feminine psychical qualities are stimulated. Her coyness, coquetry, and sequaciousness are exercised to the full, and serve to heighten her sense of psychical well-being just as completely as the more dominant and initiatory activities of the man enhance his psychical tone, and finally, when the act of wooing reaches its natural sequel and culmination, the psychical benefits which she experiences are as great, if not actually greater, than are the physical benefits. Thus, Dr. Beale reminds us "that in human beings the physical union of real lovers becomes the vehicle and symbol of a spiritual union which cannot in any other way be so completely effected or expressed. From the bodily coalescence of lover and beloved, from the thrill and ecstasy kindled in that close embrace, the full mutual surrender and uttermost delight in one another, there spring emotions and sympathies that are quite unattainable in any other manner."[2] Similarly, Dr. Marie Stopes writes, "the complete act of union . . . symbolizes, and . . . actually enhances, the spiritual union. . . . At the same time the act gives the most intense physical pleasure and benefit which the body can experience, and it is a *mutual*, not a selfish, pleasure and profit, more calculated than anything else to draw out an unspeakable tenderness and understanding in both partakers of this sacrament."[3]

But just as a normal sex-life is a contributory factor to a healthy mental condition, so also does repressed or unsatisfied

[1] *Ibid.* pp. 61, 62. [2] *Ibid.* pp. 57, 58. [3] Stopes, *loc. cit.*, p. 94.

sex-life frequently lead to mental abnormalities, neuroses, and even insanity. Professor Freud has proved this very completely, but long before he published his researches, Sir Francis Galton drew attention to the fact that sexual repression, prolonged fasting, and a solitary habit of life were among the most fruitful causes of insanity.[1] Similarly, innumerable psychopathologists who do not accept many of Freud's theories are unanimous in their opinions that sexual repression or sex-conflict is responsible for the vast majority of neuroses and abnormal mental conditions, and all agree that women form a far larger proportion of their patients than do men. Thus, Dr. C. G. Jung, a former pupil and assistant of Freud, who disagreed with the Freudian theory of *libido* (*i.e.* that all human energy is sexual or sexually conditioned), states: "I am often asked why it is just the erotic conflict, rather than any other, which is the cause of neurosis. There is but one answer to this. No one asserts that this ought necessarily to be the case, but as a simple matter of fact, it is always found to be so." Again, the late Dr. J. J. Putman declared that "some abnormality of the sexual life is always present as the cause of especially insistent emotions and repressions"; Dr. W. H. R. Rivers, a psychotherapist of exceptionally wide experience, maintains that "the great majority of the neuroses of civil practice depend on the failure of balance between the . . . sexual instinct and the very complex social forces by which this instinct is normally controlled";[2] while Dr. William Brown, whose experience rivals that of Dr. Rivers, and who is frankly sceptical of the Freudian theory of sex, nevertheless admits that sexual repressions are very frequently the determining factors in the formation of pathological complexes.[3]

We have now adduced very considerable evidence to show that the sex-act is much more than a mere reproductive device; that it is not only a racial but an individual necessity; that its satisfaction enhances physical and mental well-being; that its

[1] Galton, F., *Inquiries into Human Faculty*, pp. 46, 47.
[2] Rivers, W. H. R., *Instinct and the Unconscious*, p. 120.
[3] Brown, W., *Psychology and Psychotherapy*.

repression or non-satisfaction predisposes to physical and mental disease, and finally that "sexual pleasure" which demands not only actual coitus but the initial wooing and the climatic orgasm "may prove the stimulus and liberator of our finest and most exalted activities." [1] To these facts we must add another, namely, that the conjugal relationship does not necessarily ensure a healthy sex-life, and that in actuality countless numbers of married men and women suffer from acute sexual dissatisfaction.

Many causes contribute to this, one of the commonest among women being incomplete sexual intercourse—*i.e.* coitus minus the climatic orgasm. "It is estimated that seven out of every ten married women of the English-speaking race experience no climax in the conjugal embrace," [2] writes Dr. Courtenay Beale; while Dr. Marie Stopes declares that "it is, perhaps, hardly an exaggeration to say that 70 or 80 per cent. of our married women (in the middle classes) are deprived of the full orgasm through the excessive speed of the husband's reactions, or through some maladjustment." [3]

If sexual starvation among women who have never had their sex-life stimulated nor their passions roused to a high pitch of expectancy results in a general dissatisfaction with life and in mental and physical diseases, it must be apparent that a married woman whose sex-life is constantly being aroused and deliberately stimulated, but rarely if ever naturally satisfied, must suffer far more acute misery and be exposed to even greater mental and physical dangers than are her unmarried sisters. That this is the case is abundantly proved. Havelock Ellis quotes an eminent Austrian gynecologist who asserts that "out of every hundred women who come to him with uterine troubles, seventy suffer from congestion of the womb, which he regarded as due to incomplete coitus." [4] A writer in the *British Medical Journal* detailed a number of serious cases of nervous diseases in

[1] Ellis, Havelock, quoted by Beale, *loc. cit.*, p. 65.
[2] Beale, *loc. cit.*, p. 80.
[3] Stopes, *loc. cit.*, p. 93.
[4] Ellis, H., *Sex in Relation to Society*, p. 551.

married women attributable to the same cause; [1] and Dr. Marie Stopes, commenting on the fact that "the modern civilized neurotic woman has become a byword in the Western world," declares that she is "certain that much of this suffering is caused by the *ignorance* of both men and women regarding not only the inner physiology, but even the obvious outward expression, of the complete sex-act." [2]

"Under conditions such as these—and let us remember that they are *common* conditions—one of two things is likely to happen," says Dr. Beale. "The wife . . . will be disposed . . . to reduce the occasions of union as much as possible, making little or no secret of her distaste for intercourse with her husband. . . . Or, and this is the more usual alternative, she will submit to marital relations quite passively, performing her wifely duty with undisguised apathy." [3] This must inevitably mean that not only the wife, but also the husband will experience acute sexual dissatisfaction, for it is unquestionably a fact, as Dr. Beale reminds us, that no highly civilized or sensitive man "appreciates union with a woman who remains unmoved and listless in his arms, and that the merely passive, dutiful, submissive, but frigid spouse will speedily fail to attract him." [4]

Incomplete coitus, however, is by no means the sole cause of sexual dissatisfaction among women. The initial wooing is as essential to her physical and psychical well-being as is the orgasm. Many husbands entirely neglect this, regarding it as altogether superfluous after marriage, while others are conspicuously maladroit. The wooing of a highly civilized woman, moreover, is a far more complex matter than is the wooing of a savage woman, who is practically devoid of any cultural attainments. Furthermore, no two highly civilized women can be wooed in precisely the same way—in brief, courtship has become an art demanding no little skill, patience, and psychological insight. Again, the sexual requirements of men and women are by no

[1] *British Medical Journal*, 1st April, 1911, p. 784.
[2] Stopes, *loc. cit.*, p. 111.
[3] Beale, *loc. cit.*, p. 81.
[4] *Ibid.* p. 81.

means identical. The constant formation of spermatozoa and the secretion of seminal fluid in a normal healthy man assures the almost perpetual potency of his sexual ardour, whereas a woman, owing to the fact that her ova are preformed and limited in number, experiences only rhythmically recurrent phases of sexual ardour—coinciding probably with the maturation and disruption of a Graafian follicle—and, unless she is very strongly and artificially stimulated, is distinctly adverse to sexual intercourse during the intervening periods of sub-normal potency. Hence if mutual dissatisfaction is to be avoided, it is necessary that there should be a careful adjustment of sexual intercourse.

Finally, it must be remembered that individuals vary almost as much in their sexual requirements and ardour as they do in their temperaments and mentality. Some, and particularly creative and artistic persons, are especially strongly sexed, while others again, owing to indifferent health, low vitality, or inhibitions, are extraordinarily weakly sexed; [1] and between the two extremes there are a multitude of less acute, but nevertheless material, differences. "Sexual anæsthesia," moreover, "is unhappily common among women of the upper and middle classes." [2] A woman, writes Dr. Beale, "owing to the inhibitory nature of her training, and the false ideas concerning sex which have been inculcated into her . . . may often be without emotional initiative—her sensory and emotional capacities may have been so effectively damped down that she will remain unstirred even in marriage." [3] Such a woman will inevitably remain frigid, and the doctor rightly reminds us that "the man who has what he calls a frigid wife at home, with no ardour answering his ardour, suffering his caresses without returning them—palpably, unconcealedly apathetic—will sooner or later be tempted to seek consolation elsewhere." [4] In any case, marriage will be a hollow mockery for such a husband, and

[1] Mr. Ludovici, in his *Woman : A Vindication*, stresses the rôle played by "tonality and vitality," and rightly discriminates between "definite and dissimilar types of women—the positive and the negative." Needless to say, similar differences exist also among men.

[2] Beale, *loc. cit.*, p. 50. [3] *Ibid.* p. 52. [4] *Ibid.* p. 82.

he will be exposed to all the mental, physical, and nervous ills that attend a stimulated but unsatisfied sex-life. The case of a strongly sexed woman married to a weakly sexed man will be even worse, since she will rarely obtain even crude physical relief.

We have given particular prominence to this problem of sexual compatibility because we are convinced that the mental and "spiritual side of marriage . . . will never so much as have a chance to develop while the natural side is out of gear," [1] and because a full and satisfying sex-life is not merely a matter of animal indulgence, but a vital factor in the development and renewal of mental and spiritual powers. The sexual relationship is a comparatively small thing in marriage if it is satisfactory, says a character in Miles Malleson's play, *The Fanatics*, but a very big thing if it is not all right. In point of fact, moreover, the real underlying cause of most marital unhappiness and divorce is invariably sexual discontent, and since prenuptial sexual intercourse between engaged couples—which alone would enable them to discover whether or not they were sexually compatible—is discouraged by convention, divorce must remain the sole avenue of escape from such incompatible unions which are attended by dissatisfaction, misery, impaired vitality, nervous disorders, and even mental and physical diseases.

We must now consider the second great necessity in modern matrimony, namely, mental compatibility, for while Edward Carpenter's dictum, that "intimacies founded on intellectual and moral affinities alone are seldom very deep or lasting, if the physical basis in any form is quite absent," [2] is admittedly true, it is equally true also that physical compatibility alone, except among people of negligible mentality, is a hopelessly inadequate basis for married life. In brief, and to put the matter quite plainly and crudely, mentally incompatible spouses are little more than mere sleeping partners, and, since no cultured human being can be permanently bound by physical chains alone, it will

[1] Howard, Dr. W. L., quoted by Beale, *loc. cit.*, p. 11.

[2] Carpenter, E., quoted by Beale, *loc. cit.*, p. 24 n.

inevitably happen—if the couple possess any courage or initiative at all—that they will sooner or later cease to be even sleeping partners.

The classical example of the fate of unintelligent wives married to brilliant and accomplished husbands was provided by Athenian life. In ancient Athens, thanks to the conventions of society, wives, as we have already seen, were confined to the *gyneceum*, were occupied solely with domestic affairs, and lived generally in a state of mental nullity, and it was primarily because of this that the class of *hetaïrae* came into existence. "The courtesan was the one free woman of Athens," wrote Lecky, "and she often availed herself of her freedom to acquire a degree of knowledge which enabled her to add to her other charms an intense intellectual fascination. Gathering round her the most brilliant artists, poets, historians, and philosophers, she flung herself unreservedly into the intellectual and æsthetic enthusiasms of her time and soon became the centre of a literary society of matchless splendour. Aspasia, who was as famous for her genius as for her beauty, won the passionate love of Pericles. She is said to have instructed him in eloquence, and to have composed some of his most famous orations; she was continually consulted on affairs of State; and Socrates, like other philosophers, attended her assemblies. Socrates himself has owned his deep obligations to the instructions of a courtesan named Diotima. The courtesan Leontium was among the most ardent disciples of Euripides." [1] In short, members of the *hetaïrae*, and not legal wives, were the true wives and companions of the intellectual Athenians.

The excellence of Greek culture also serves to show that mental compatibility, like sexual compatibility, has become extraordinarily complex with the development of civilization. The savage, who seeks little more than mere physical satisfaction of the crudest sort in his sex-life, also seeks little more than mere domesticity and a capacity for manual labour in his wife, and in consequence almost any woman of his tribe is capable of

[1] Lecky, *History of European Morals*, vol. ii., p. 193.

satisfying his matrimonial requirements. A large range of choice also exists among the over-worked and—possibly through no fault of their own—comparatively unintelligent labouring classes of our own time, among whom the chief requirement in a wife is an ability to maintain a home and also, if possible, to supplement her husband's meagre income by occasional outside work. The manual labourer, in fact, demands primarily, and almost solely, that his wife shall house and feed him sufficiently well to maintain his physical strength and vitality, whereas the brain-worker and professional man requires, in addition to these things, companionship and mental compatibility.

History conclusively proves that highly civilized men are as dependent upon the mental response of women as they are upon woman's physical responsiveness. Behind every great man in history there has been some equally great woman, or women, and the fact that the woman's genius has been expressed in mental responsiveness rather than in initiativeness does not alter this truth, but simply emphasizes the fundamental difference between men and women. Admittedly, no great man has ever done any truly great creative work solely because of a woman; for, despite the popular superstition to the contrary, the fact remains that a man primarily does such work not because he wishes to please anyone else, nor even because he wants to please himself, but because his own nature, the creative urge within him, literally drives him to it and will give him no peace or respite as long as he refuses to comply with its demands.

Woman's responsiveness, then, is accessory and not primary, but is nevertheless essential, and his work, and even the man himself, will suffer without it. And woman alone seems to be capable of yielding this necessary responsiveness, for whereas it is a woman's nature to find complete satisfaction in response or sequaciousness, masculine hegemony which demands sequaciousness for its stimulation and full development, precludes the male (possessing any real ability or masculinity) from yielding to another male that completely whole-hearted mental response which is so naturally yielded by an intelligent and truly feminine

woman. The history of the various schools of thought prove conclusively the inadequacy of masculine responsiveness. Great men have rarely been without their disciples, but the disciple of the great scholar or statesman or scientist or artist, if his ability anything like matches his master's, is seldom content to remain long a mere disciple, and sooner or later asserts his independence, insists upon making his own original contribution, and possibly founds a counter school. The history of the Freudian school of psycho-analysis at Vienna affords an outstanding example of this in recent times. Freud himself broke with Bruer, and in turn the most brilliant of Freud's disciples, Jung, Alder, Ferenczi, Stekel, Wittels, and others, either disagreed or quarrelled with Freud, and continued their work and researches independently.

Mr. H. G. Wells, with his acute perception, has recognized this great capacity for responsiveness as being an outstanding feminine quality, and one upon which the male is very largely dependent. Thus he makes one of his characters say to another: "I can understand this loneliness of yours . . . and I think it explains why you turn to women as you do. You want help; you want reassurance. And you feel that they can give it. . . . Women and women alone seem capable of giving that, of telling you that you are surely right, that notwithstanding your blunders you are right; and even when you are wrong it doesn't so much matter, you are still right in spirit. They can show their belief in you as no man can. With all their being they can do that." [1] Here we have the gist of the whole matter, women can respond and show their belief with their whole being as no man can. And this response and wholehearted belief is essential to the man; it spurs him on to further efforts, gives him solace in his disappointments and despair, and renews his faith in himself when the world at large ignores or refuses to recognize his merits—particularly his prentice efforts. Without this response and support, which no man can so efficiently give, many a great man would have gone under, and

[1] Wells, H. G., *The Secret Places of the Heart.*

many a genius would have been lost to the world. And this whole-hearted devotion and response is as beneficial to the woman as it is to the man. It fulfils the primary requirements of her nature, and yields her the intense satisfaction of knowing that she matters, and matters supremely, to at least one person, and that her happiness as well as her existence is fully vindicated. The woman behind a great man deserves an equal honour, and it is indeed gratifying that great men are, in increasing numbers, acknowledging their obligations.

But there is another side to the picture. If a competent wife can nurture and stimulate her husband's ability, an incompetent wife can also cramp and almost stifle it. Robert Browning illustrates this very clearly when he makes the "faultless painter" say to Lucrezia: [1]

> "But had you—oh, with the same perfect brow,
> And perfect eyes, and more than perfect mouth,
> And the low voice my soul hears, as a bird
> The fowler's pipe, and follows to the snare—
> Had you with these the same, but brought a mind!
> Some women do so. Had the mouth there urged
> 'God and the glory! never care for gain.
> The Present by the Future, what is that?
> Live for fame, side by side with Angelo—
> Raphael is waiting. Up to God all three!'
> I might have done it for you."

In much the same way Mr. H. G. Wells complains that an increasing number of modern women are losing or deliberately stifling their power of responsiveness. Woman, he writes, "has retained her effect of being central, still makes the social atmosphere, she still raises men's instinctive hopes for help and direction. . . . And there is no direction in her any more." Women, Mr. Wells continues, are "incapable of producing ideas in the same way that men do, but with suitable encouragement they could be induced to respond quite generously to such ideas. Suppose therefore we really educated the imaginations

[1] Browning, R., *Andrea Del Sarto.*

of women; suppose we turned their indubitable capacity for service towards social and political creativeness, not in order to make them the rivals of men in these fields, but their moral and actual helpers." A man of the creative "sort wants a wife-mistress. He wants a sort of woman who cares more for him and his work and honour than she cares for child or home or clothes or personal pride. His work needs to be very fine to deserve her help. But admitting its fineness? Very well then, we have to make women more responsible again. In a new capacity. We have to educate them far more seriously as sources of energy—as guardians and helpers of men. And we have to suppress them far more rigorously as tempters and dissipators. Instead of mothering babies they have to mother the race." [1]

It is possible that many women, who are now enjoying for the first time the pleasures of complete social emancipation, will object to Mr. Wells' conception of the ideal feminine rôle, and, being convinced that women are in every way the intellectual equals of men, will scorn to play a part which they consider to be inferior. Such women, however, obviously misunderstand the true nature of the equality of the sexes, for the equality, as we have already shown, is not the equality of two identical halves, but of two highly specialized and differentiated component parts. Man's rôle is neither higher nor lower than woman's, but diverse; and both the man and the woman will attain their maximal satisfaction and efficiency only when they adapt themselves to those respective functions ordained not by the caprice of society but by the fundamental laws governing their own organisms. Furthermore, we may add that it is no more derogatory for a woman to dedicate herself to the service of her husband than it is for the husband to dedicate himself to the service of the State or humanity, and that unless they are prepared to do so they will neither vindicate their existence nor attain that real satisfaction which they are capable of experiencing.

This is not to maintain that a wife should have no interests

[1] Wells, H. G., *The Secret Places of the Heart.*

outside her husband, in fact she will probably be a very indifferent wife if she has not, just as a scientist or a statesman who has no interests outside science or politics is likely to make a poor scientist or an inferior statesman. Furthermore, no one but a congenital idiot or a rabid anti-feminist would seriously maintain that a Rosa Bonheur should give up art, a Sarah Bernhardt retire from the stage, a Nellie Melba cease singing in public, or a George Eliot repudiate literature, simply or solely because she happens to marry. It is doubtful, however, if especially gifted women, who are absorbingly interested in their work, should marry brilliantly creative men, who also have absorbing interests, unless these interests happen to coincide. On the other hand, when such interests do coincide, the results are undoubtedly beneficial—as witness the classical example of the Brownings.

In much the same way there is no really cogent reason why an artist, writer, actress, musician, lady doctor or teacher should give up her profession upon marrying, indeed it is little short of imbecility. If her husband can afford to keep such a wife in idleness, her renunciation, to say the least of it, will constitute a sheer waste of ability, and will advantage neither the husband nor the wife; while if the husband's position is such that the wife is personally compelled to discharge all the household duties, it would obviously be better for herself and for her husband that she should continue in her own vocation and devote a part of her remuneration to the employment of a less gifted, but probably more domestically efficient, servant. There is, in fact, something positively grotesque in the idea of a really intelligent and accomplished woman spending the greater part of her life in making beds, dusting furniture, preparing meals, or even washing and mending children's clothes, supervising their every movement and spending hours pushing a perambulator—a woman does not become a less efficient mother merely because she employs an efficient nursemaid and governess.

We may concede, then, that it is essential for the well-being and happiness of both husband and wife that they should have

dominant interests in common. Moreover, where such compatibility does not exist, one or the other will sooner or later seek that compatibility elsewhere; and even if, owing to moral restraint or a fear of disregarding the conventions, neither happens to actually form an illicit union their married life will nevertheless be ruined, and their efficiency and happiness impaired.

It is important, however, that we should understand the real nature of mental compatibility. It certainly does not mean, as Dr. Beale reminds us, "that the wife of a Greek scholar should be able to read Euripides in the original," but it does mean that "it will be an advantage if she has heard of the existence of Euripides, and is able to take an interest in her husband's life-work." [1] Again, to take more extreme examples, it will not greatly profit the wife of, say, an abattoir assistant or a blacksmith, if she has a practical knowledge of humane cattle-killers or shoeing, but, since slaughtering and shoeing, though highly necessary, are chiefly bread-and-butter jobs, and the husband finds the fullest scope for his genuine interests outside the abattoir and the smithy, it is very necessary indeed that the wife should be able to share these all-important interests and recreations.

This matter of having interests in common cannot be emphasized too much, especially in these days of machinery and labour-saving devices when greater leisure is ensured to all classes. The working-man no longer comes home too dog-tired to do anything but tumble into bed, and the wife, thanks to the wide dissemination of a knowledge of birth-control, need no longer be handicapped with an unmanageable number of children, and has also much more leisure than was formerly the case. It is this leisure which is so important, but unfortunately the average wife has not yet fully realized it. Her training for matrimony, if she ever had any, seems to have been based upon the assumption that a husband possesses nothing but a body. The *lares* and *penates* of such a wife would seem to be housekeeping and cooking, and these two qualities, together with

[1] Beale, *loc. cit.*, p. 33.

chastity, are regarded as the sole virtues desirable in a really "good" wife.

It is undeniable, for example, that the theory of "feed the brute" has been carried to excess, and that many a wife has literally sold her birthright for "a mess of pottage." Thus, innumerable wives, who have been brought up to believe that the surest way to reach a man's heart is by way of his stomach, have learned to their cost, and not infrequently too late, that a man's heart can remain singularly empty even though his stomach may be agreeably full. Hence many men, who find that their wives can fill their stomachs much more efficiently than they can their leisure, habitually repair—as soon as the evening meal is over—to their club or the "local," while the connubial cook is left to while away the time as best she may at home or at the cinema.

It is sometimes said, however, that mental compatibility is a *luxury* of the leisured classes. It would be truer to say it is a *necessity* of the cultured classes, for it must be admitted that mental incompatibility can scarcely exist among people of undeveloped mentality, and that the development of mentality is largely dependent upon the possession of an adequate amount of leisure. Mental compatibility, therefore, is much more important at present among the so-called middle and upper classes than it is among the lower, and consequently we shall consider the problem chiefly from the viewpoint of the first two classes, but it must also be remembered that the next few generations are going to witness tremendous changes among the artisans and manual workers, and that improved machinery, shorter working hours, and better education will soon extend the problem which we are considering to this class.

One of the most important factors in mental compatibility is agreement as to what is and what is not of paramount importance in life. Every day we come into contact with persons who:

> "... love what I hate,
> Shun what I follow, slight what I receive;
> (Men), who in ears and eyes,

Match me: we all surmise,
They, this thing, and I, that: "[1]

"Now this is where there should be community between man and wife," wrote Stevenson. "They should be agreed on their catchword in '*facts of religion*,' or '*facts of science*,' or 'society' . . . . for without such an agreement all intercourse is a painful strain upon the mind. The best of men and the best of women may sometimes live together all their lives, and, for want of some consent on fundamental questions, hold each other lost spirits to the end."[2]

Temperamental compatibility is almost as important as is agreement in religious, scientific, or social faith. "You can forgive people who do not follow you through a philosophical disquisition," wrote Stevenson, "but to find your wife laughing when you had tears in your eyes, or staring when you were in a fit of laughter, would go some way towards a dissolution of the marriage."[3] A man and wife should be able to share their recreations as well as their more serious interests. When one partner is devoted to serious drama and the other to musical comedy; one to classical music and the other to jazz; one to dancing and the other to golf, and so on, the gulf between them, which may seem trifling at first, is liable to broaden prodigiously in the course of years. This does not mean that husband and wife should go through life like the Siamese twins—scarcely any two persons could tolerate each other for twenty-four hours in every day—but it does mean that when they do share each other's society they should be able to enjoy it to the fullest extent.

For this reason a great discrepancy in age between husband and wife is scarcely ever satisfactory, for youth can rarely tolerate the placidness of old age for long, and maturity soon tires of the restlessness of youth. Besides, from the physical point of view, there is something æsthetically repulsive in the

[1] Browning, R., *Rabbi Ben Ezra*, v. 22.

[2] Stevenson R. L., *Virginibus Puerisque and Other Papers*, pp. 15, 16.

[3] *Ibid*, p. 18.

union of youth and beauty and vitality with senility and fading charms and feebleness. Similarly, any considerable social incompatibility should be avoided. King Cophetua may love his Beggar Maid dearly, but there will undoubtedly come a time when he will blush for her manners and chafe under her social *gaucheries*, and this will place a very considerable strain upon his affection.

Fortunately, however, differences in age and social status are usually discernible from the first, whereas the even more important differences in mental outlook and temperament are by no means so apparent. Marriages usually take place fairly early in life, long before mental maturity has been reached, and the couple may develop in ways that are quite unforeseen. Again, a young couple during an engagement are usually at extraordinary pains to please each other and to appear at their best. Thus, they will simulate interests which they do not actually possess, and this with no conscious intent to defraud, but, more often than not, they will drop these interests again and relax their mutual efforts to please remarkably soon after they are safely married—actuated perhaps by the principle that there is no need to run after a 'bus when once you have caught it.

Finally, it must frankly be admitted that a considerable number of women still regard matrimony as a career, and believe that when once they are married they are safely provided for life. To such women courtship constitutes their one solitary burst of activity, and in order to secure a financially or socially desirable husband they will take infinite pains and practice infinite deceit. It is a commonplace that woman is a born actress, and the scheming husband-seeker seems to be a peculiarly efficient one, for she frequently succeeds in making a young man believe that she is compatible to him in every way, whereas, in point of fact, and as he invariably discovers within a few months of his marriage, they are completely unsuited.

It follows, therefore, that youthful inexperience, the unconscious and temporary simulation of interests made by engaged couples, and the deliberate deceit practised by the husband-

seeker, preclude the possibility of accurately gauging true mental and temperamental compatibility before marriage, and that, in consequence, facilities for divorce must always be granted in order to secure the happiness and well-being of the mismatched couple and their individual and social utility.

XIII

THE NECESSITY OF MARRIAGE AND DIVORCE LAW REFORM

If marriage be regarded from the social viewpoint, it will be apparent from the foregoing chapters that, where true compatibility exists, lifelong monogamic unions constitute the highest form of marital evolution—who, asked the Emperor Justin, would wish to sever himself from an ideal partner ?—but that where the partners are mentally, physically or temperamentally incompatible, indissoluble matrimony is not only prejudicial to the health, happiness and efficiency of the individuals, but is also definitely immoral and opposed to the true interests of society.

" In primitive phases," wrote Spencer, " when permanent monogamy was developing, union in the name of the law—that is, originally, the act of purchase—was accounted the essential part of marriage, and union in the name of affection was not essential. In the present day, union in the name of the law is considered the most important, and union by affection as less important. A time will come when union by affection will be considered the most important, and men will hold in reprobation those conjugal unions in which union by affection is dissolved." [1] Similarly, Montaigne wrote, " We have thought to make our marriage tie stronger by taking away all means of dissolving it, but the more we have tightened the constraint, so much the more have we relaxed and detracted from the bond of will and affection." [2] To the witness of these two great thinkers we

[1] Spencer, H., *Sociology*, vol. ii., p. 410.

[2] Montaigne, *Essays*, vol. ii., p. 15.

may add that of Professor Letourneau. "Monogamic marriage will continue to subsist," he wrote, "it is the last comer, and much the most worthy, and besides, the balance of the sexes makes it almost a necessity; but it will have more and more of equality in it, and less and less of legal restraint. . . . It is therefore possible that a future more or less distant will inaugurate the *régime* of monogamic unions, freely contracted, and, at need, freely dissolved by simple mutual consent, as is already the case with divorces in various European countries. . . . In these divorces of the future, the community will only intervene in order to safeguard that which is of vital interest to it—the fate and education of the children. But this evolution in the manner of understanding and practising marriage will operate slowly, for it supposes an entire corresponding revolution in public opinion; moreover, it requires as a corollary, profound modifications in the social organism." [1]

As the foregoing opinions were enunciated during the eighteenth and nineteenth centuries, Professor Letourneau's prophecy that such changes "will operate slowly" is fully justified. This, however, is only to be expected. "Law is by nature conservative," writes Professor Westermarck, "maintaining sentiments developed under past conditions. It is only by slow degrees that the ideas of a new time become strong enough to release mankind from ancient prejudices." [2] This legal tyranny is due chiefly to two causes, (*a*) because scientific and mechanical discovery has proceeded at such an amazing speed during the past century that society, had it taken full advantage of the new material placed at its disposal during each decade, would have been in a state of almost constant flux, and (*b*) because our legislators, for the most part, are men well past the prime of life, and such persons, as Stevenson long ago pointed out, are predominantly "conservative, . . . cowardly, niggardly, and suspicious." [3]

The conservatism of our legislators and, until recently, the

[1] Letourneau, *loc. cit.*, p. 358. [2] Westermarck, *loc. cit.*, p. 376.
[3] Stevenson, R. L., *Virginibus Puerisque and Other Papers*, p. 89.

majority of the electorate—hitherto largely comprised of old and middle-aged persons—constitutes the greatest indictment of democracy. "Can there be a more bitter censure upon democratic government," asked Lord Buckmaster, in one of his innumerable articles on the subject of divorce, "than that it should fail to redress the grievances of those who are few in number and weak in strength? If it could be pleaded with any sort of conviction that the redress of these grievances entailed any serious injury to the majority, a case might be made out for the other side; the interests of the majority cannot be sacrificed to those of any minority. But no such plea can be put in; the vast majority of tolerably successful marriages will be quite unaffected by the breaking of what, in many cases, has become a detestable bond."

Neither our legislators nor the electorate have any right to plead ignorance as an excuse for their callous attitude to the suffering minority, since the Report, Minutes of Evidence, and Appendices of the Royal Commission on Divorce and Matrimonial Causes (published in 1913) have placed the true facts at the disposal of all and sundry. Thus, the Appendices alone contain reports from barristers, solicitors, welfare-workers, court-missionaries, and letters from private correspondents which conclusively prove that our present marriage and divorce laws entail countless thousands of wrecked lives, untold misery, and an almost unbelievable amount of inhuman cruelty, while the pages of this volume contain records of persons bound for life to incurable lunatics; of others irrevocably united to criminals serving long sentences of imprisonment, or to drunkards, drug fiends, or venereal partners; of thousands living in separation and thus permanently debarred from ever again enjoying a legally recognized connubial life, and of men and women compelled to live either an unnatural solitary life or continue in misery with partners guilty of almost every conceivable human offence except the ecclesiastical arch-crime of adultery.

It may be pleaded, of course, that dry and prosaic Commission Reports are rarely, if ever, read by the general public, but this

constitutes an indictment rather than an excuse. The franchise carries with it duties as well as privileges, and the duty to see that one's country is efficiently governed in peace is as imperative as is the duty of the citizen to sacrifice his life, if needs be, in the defence of his country in war. In point of fact, moreover, it is not even necessary to go to the Commission Report, since innumerable dramatists and novelists have dealt with the subject in a human and interesting manner. Among such works, to quote only a few examples, are Bernard Shaw's *Getting Married*; Clemence Dane's *Bill of Divorcement*; Gilbert Frankau's *Love Story of Ailette Brunton*; Alec Waugh's *Nor Many Waters*; and H. G. Wells' *The World of William Clissold*, a part of this last work aptly demonstrating the immorality and imbecility of intervention on the part of the King's Proctor.

The real trouble is that many people, and particularly the English, order their lives by catchwords. "There are too many of these catchwords in the world," wrote R. L. Stevenson. "They have a currency as intellectual counters; and many respectable persons pay their way with nothing else." [1] One such catchphrase having a wide currency is the popular dictum that "Hard cases make bad law." It sounds well, but one sometimes wonders if the innumerable people who utter it with an air of profound wisdom and solemnity have ever realized the fact that "to have a catchword in your mouth is not the same thing as to hold an opinion; still less is it the same thing as to have made one for yourself." [2] In point of fact it would be far truer to maintain that "Bad law makes hard cases," for this contention is proved up to the hilt in the working of our marriage and divorce laws.

One or two typical examples will suffice to illustrate this. "A respectable tradesman," reports Mr. R. T. Gates, "got to loggerheads with his wife on account of a 'single man' lodger, who was subsequently found to be a married man living apart from his wife, and who, though made to leave the house by the

[1] Stevenson, R. L., *Virginibus Puerisque and Other Papers*, p. 86.
[2] *Ibid.* p. 86.

husband, continued to call when he was away. . . . This, after about eight years of more or less unhappiness, culminated in a quarrel in which the husband struck his wife; she thereupon summoned him for assault, the magistrate binding him over to keep the peace for six months. Two days after, his wife left him with six children . . . and applied for a summons against him for refusing to provide reasonable maintenance.

"Finally, by an agreement between the parties, an order was made for the husband to pay his wife 13s. 6d. weekly (and to take charge of and support the children). This sum he paid regularly for twelve months, then he began to get into financial difficulties, and falling over four weeks in arrears with the maintenance allowance, a warrant was immediately obtained by the wife and he was sent to prison for a month. Obtaining the arrears of maintenance from a friend he was released, but shortly afterwards had to give up his place of business, in consequence of which his earnings were much reduced, so much so that he applied to the magistrate for a reduction of the weekly allowance. The magistrate, however, would not grant this, and four months later, being again in arrears, he was committed to prison in default of paying about £3. He again borrowed the money and was released, and once again applied to the magistrate for a reduction of the maintenance allowance, but without success.

"Three months had hardly passed when he was again arrested and sent to prison, this time for six weeks, the arrears of maintenance due on this occasion amounting to £12. Being without means and unable to borrow the necessary money he had to remain in gaol, and he then caused three of his children to be handed over to his wife, who immediately applied for them to be placed in the Workhouse; the Guardians, however, refused, but allowed her poor relief. Early in the morning on which the husband was released, his wife waited outside the prison gates and handed over the three little children to him, she having previously endeavoured to get the Relieving Officer of the Guardians to have him arrested for the cost of poor relief allowed to her while he was in prison. After this the wife verbally agreed not to

press for maintenance if the husband kept the children, and did not trouble him for some two or three years, during which time he obtained a permanent position of trust.

" Once again, however, his wife had him arrested, the arrears at this time having accumulated to the extent of about £150, and he was sentenced to three months' imprisonment. Fortunately for him his brother came forward and paid £10, at the same time promising to pay off the arrears by monthly payments of £1, and he was released. . . . Another four months having passed, he was again arrested and sent to prison for a month, being unable to pay arrears amounting to £8 10s., and having to remain in gaol on this occasion, he thereby lost his employment. Two days before his release he was served with a further summons for the arrears to date, and upon leaving prison was compelled to appear at the Police Court, and although explaining the fact that, through being in gaol, he was unable to obtain or earn any money, he was sent again back for two months, during which period of incarceration he petitioned the Home Secretary, who informed him that he had no power whatever to interfere in such cases. . . . When I last heard of this man he had been out of prison three weeks, was out of employment, and had no means or home, was almost destitute, had three children to support, and was being threatened that unless he paid £8, the amount of arrears which had accrued while he was in prison and for the three weeks following his release, that he would be sent back to prison again." [1]

We recommend this case to the upholders of the catchphrase that " Hard cases make bad law," and inform them categorically that it is a bad law, and nothing short of a criminal, imbecile, immoral, vicious, and inhuman law, that could give rise to such a case. Ignorance cannot be pleaded : the local authorities have records of the case, as also has, or should have, the Home Office. Nor can it be pleaded that such cases, except perhaps in actual detail, are exceptional. " The more I sit in these courts where

[1] Gates, R. T., *Divorce or Separation : Which ?* pp. 15, 16. (A pamphlet published by The Divorce Law Reform Union.)

the petitions of poor persons are brought, the more startled I am with the ease with which an unfaithful wife appears to get an order for maintenance in the police courts, and then a perfectly respectable husband finds himself in prison because he cannot pay it," declared Mr. Justice Rigby Swift at the Manchester Assizes. "It is perfectly shocking to me to see the number of people who seem to go to prison because they cannot maintain their wives."

It is indisputable that our present marriage, separation, and divorce laws literally encourage feminine vindictiveness and parasitism. We ourselves, during our investigations, have received ample proof of this, and the following example, taken from a sphere of life very different from that of the case reported by Mr. Gates, proves that the evil exists in all grades of society.

A young officer met, and, thanks to the machinations of certain designing though possibly well-meaning friends and relatives, was constantly thrown into the society of a young lady. After some six weeks of acquaintanceship—during which he had been guilty of the offence of taking her to a few theatres and dances, but had never made any attempt at courtship—a rumour of their engagement was circulated. The young man, who had no desire whatever to marry the lady in question, was naturally annoyed, but the lady herself and also her friends and relations were manifestly pleased, and it was delicately but none the less firmly hinted that it was up to the young man, having compromised the girl, to justify the rumour. The officer, as we have said, was very young, and, being better equipped with conventional conceptions of honour than with experience of actual life, reluctantly proposed marriage, and was accepted with alacrity.

The marriage was a failure from the first, the girl being hopelessly unintelligent, lacking in either passion or affection, and possessing absolutely no *métier de femme*. At length, when he realized the hopelessness of his marriage, the officer met and fell in love with another young lady, frankly told his wife about

it, offered to supply her with grounds for divorce, and made a proposal for settling quite a generous allowance upon her. The wife categorically refused to entertain the idea, tried to force her husband to discontinue his acquaintanceship with her rival, and generally made things even more unpleasant than they were before. The husband, however, was firm, and while absent from his wife on military duty, wrote informing her that if she persisted in refusing to divorce him he would be compelled to withdraw from connubial life, make her an allowance, and leave her to act as she thought fit.

This was quite sufficient for the wife, who immediately repaired to a solicitor, whom she instructed to draw up a deed of separation. The solicitor wrote informing the husband of the wife's action, and requested his signature to an enclosed deed. The husband properly replied that the matter was a private affair between his wife and himself, and that he had no intention of being coerced by a third party. Thereupon the solicitor wrote intimating that the husband's threats to leave his wife (both verbal and written) amounted to persistent mental cruelty, and stated that unless the deed of separation was signed forthwith he was instructed to institute an action for a judicial separation in the courts. Furthermore, both wife and solicitor had in the meantime privately approached the officer's colonel, who accepting their version of the case, wrote threatening to place the husband under arrest for " conduct unbecoming to an officer and a gentleman."

The husband was now in a complete quandary. He sought legal advice and was informed that no court would grant a judicial separation to the wife solely on the trumped-up grounds of mental cruelty, when, in point of fact, he had always treated her with every consideration, had tolerated her extravagances to the extent of getting himself heavily in debt, and had not, despite his affection for the other lady, been guilty of adultery. On the other hand, however, it was pointed out that to contest the case in the local court would, in view of his colonel's prejudice in favour of the wife, result in getting himself cashiered, and would

thus leave him without means to support either his child, his wife or himself. Finally, as the only way out of the impasse, the husband practically allowed himself to be blackmailed into signing an agreement which gave the wife a considerably greater allowance than he could afford, granted her the sole custody of the child, of whom he was extremely fond, and precluded him from all right of access to it in the future.

Meanwhile the " Geddes Axe " came into operation, and the colonel, desirous of avoiding the possibility of scandal at all costs, recommended the retirement of the husband upon a gratuity. This gratuity soon disappeared in paying the wife's debts and separation allowance and the husband's living expenses during the ensuing year, during which he was unable to obtain employment. Meanwhile he wrote to his wife explaining the circumstances, asking her to accept a lower allowance for the time being, and repeating a former request to be permitted to take charge of the child. She replied by refusing all requests and issuing a writ. The case went against the husband, but the wife, finding it impossible to extract blood out of a stone, had perforce to accept a smaller allowance.

At last the husband's resources were completely exhausted, and a second writ was issued against him. Realizing that nothing could be done, he reluctantly disappeared for several months, and during this period succeeded in obtaining a colonial appointment, taking the other lady with him as his wife. Again he commenced paying his wife her separation allowance, but at a slightly lower rate. Again the wife resorted to legal proceedings and threats and, although an amicable settlement was reached, a year later some of the facts reached the ears of the authorities; the husband was forthwith retired, and again left without either funds or employment.

We understand that this officer now proposes emigrating to the United States and renouncing his British citizenship solely in order to escape the persecutions of the woman who tricked him into marrying her, forced him into an unjust separation, three times issued writs against him, twice lost him an honourable

position and his sole means of supporting both her and their child, and finally deprived him of all access to the child, who is undoubtedly having its young mind poisoned against its father.

Scores of other cases with which we have become familiar could be cited. A high legal officer of the Crown in a certain colony has been separated from his wife for eleven years, and she not only refuses to divorce him, but literally blackmails him into increasing her allowance every time he, by his own efforts, succeeds in obtaining promotion. Another man, whose wife proved to be so impossible to live with that he separated from her after six months, is paying a separation allowance of £300 a year, and the wife has twice endeavoured to get this amount increased, despite the fact that her earning capacity in the commercial world would certainly not be more than 30s. per week, while we recently heard of a case of a woman living separated from her husband and obtaining an allowance from him, who also receives an allowance as the long-leave mistress of a man employed abroad, and who is further living as the mistress of, and receiving money from, a third man in England. The third man is ostensibly one of her two lodgers, but as no maid is employed and the second lodger is a party to the scheme, it is almost impossible for the husband to obtain evidence to enable him to divorce his wife and curtail his liabilities.

Nor are such cases confined to England. "Not long ago a case came to me where a woman who had never earned any money divorced her husband after three years of married life," writes Mr. A. G. Hays, a famous American lawyer. "As he was a wealthy man, she received alimony at the rate of $8,400 a year. At most, her earning capacity would have been about $50 a week. In three years she received a sum which, if capitalized, would represent savings of about $160,000. From an economic point of view it would take an extraordinary man to match her three-year accomplishment. If young women, through the business of marrying rich men, are enabled, by the work of a few months or even a few years, to gain a luxurious

living for the rest of their days, they will have the court's sanction to an unusually profitable profession." [1]

To this we would add, such women have not only the court's sanction to an unusually profitable, but also to a highly immoral, profession. It is no use mincing words: the woman who marries a man solely or principally in order to gain a livelihood is nothing less than a legalized harlot, and the blessing of a whole bench of bishops on such a union would not alter the fact. Similarly, the woman who may possibly once have entertained some affection for her husband, but who having sought or consented to a divorce or separation, endeavours to exact the uttermost farthing from him solely because she once cohabited with him for a few months or years, is simply endeavouring to live upon the proceeds of the use of her body, and is placing a value upon it which is grotesquely exaggerated. And yet, in the face of these facts, we find presumably intelligent women writing articles in the press on "The Cuckoo in the Nest," and justifying their feminine contemporaries' refusal to free husbands who have at length rebelled against their incompatible, unsatisfactory and inefficient wives, and encouraging them to refuse divorce, obtain separations, and to become literal parasites for the remainder of their lives.

These feminine writers, like thousands of other modern women, are presumably devotees to what Mr. H. G. Wells calls the cult of *La Femme*. Such a woman imagines that her sole function in life is to obtain a husband, that any deceit may be practised to this end, and that when she succeeds in capturing and marrying a suitable man, and has "given herself" to him, her life work is over; the rest is harvest. "In return for this stupendous, this almost unheard-of beneficence, she is entitled to dress, leisure, amusement, servants, and an establishment considerably above her or her husband's station. The male is rewarded or admonished by repetitions or refusals of the supreme gift. It is adorned for his birthday and reserved during Lent." [2]

[1] Hays, A. G., "Alimony: Graft or Necessity?" in *Physical Culture*, vol. lxi., No. 2, p. 66.

[2] Wells, H. G., *The World of William Clissold*, pp. 786-7.

If the marriage of such a woman is a sacrament—a metaphysical affair, signed, sealed and registered in heaven—as some ecclesiastics would have us believe, man will be driven to the blasphemous conclusion that the Almighty is the Patron of Super-harlots, and that He is utterly devoid of any moral sense whatever. Yet it is almost solely because such marriages are believed to be sacramental and indissoluble, except in the case of adultery, that such women are allowed to claim pensions from their husbands for a few years' partial hire of their bodies. "There is no public policy," writes Mr. Hays, "that demands that women who marry for economic reasons and who fail to make a success of their jobs, should be permanently insured against economic vicissitudes. *Marriage seems to be the one job for a woman that imposes little penalty for lack of success.*" [1]

To put the matter bluntly, no professional harlot or mistress could ever succeed in cheating one half so efficiently as can a legally married devotee of the cult of *La Femme*, and many professional courtesans and the vast majority of mistresses, in addition to costing infinitely less, give far more. It is scant wonder, therefore, that many men prefer a free mistress to a legalized one, and similarly it is understandable why the legalized mistress (*i.e.* professional wife) hates her free and amateur rivals. Her hate, moreover, is augmented by fear, for she realizes that in these days women are considerably in excess of men and that free unions are ruining the professional matrimonial market.

Needless to say, the foregoing remarks apply only to the professional pseudo-wife, and not to a true wife—a distinction that cannot be too strongly emphasized. The woman who merely goes through a legal or ecclesiastical marriage ceremony with a man, yields her body to him, and refrains from sexual intimacy with other men, is not, and never will be on these qualifications alone, a true wife in the highest moral sense of the word, and any law that encourages women to imagine that they have merely to inveigle a man into matrimony in order to prey upon him for the rest of their lives is worthy only of a race whose men have lost

[1] Hays, A. G., *loc. cit.*, p. 132.

every vestige of manhood and whose women have been content to degenerate into human parasites. Neither cohabitation nor good cooking nor efficient house-management constitute the sole qualifications of a wife any more than cohabitation or an adequate income or sobriety constitute the sole qualifications of a husband. Unless marriage is a true partnership, unless the partners are bound together by ties of genuine affection, strong passion, mental and temperamental compatibility, and are true comrades and helps meet for each other, the marriage is no true marriage, but only a non-moral and very frequently immoral union: for if to be moral is to be social, any action or relationship that impairs the well-being or efficiency or utility of the individual or society (and the one invariably involves the other) is definitely immoral.

The prominence which we have given to the masculine side of the question may possibly lead some of our readers to imagine that we have an anti-feminine bias. This is far from being the case. We do not for one moment suppose that it is women alone who are responsible for wrecked marriages and the necessity of divorce law reform; on the contrary, we freely concede that there are usually a greater number of masculine offenders, but we would maintain—and it is for this reason alone we have stressed this aspect of the question—that whereas men in the main are definitely discouraged and punished by the State for their matrimonial offences, women are encouraged and protected. Nine women out of every ten, who have anything like a genuine matrimonial grievance, can apply to the courts and obtain a separation and a maintenance allowance from the offending husband—in brief, masculine offences are legally penalized. On the other hand, however, a woman can render a man's married life absolutely intolerable, and unless she has been foolish enough to commit adultery or to allow her adultery to be discovered, she can actually obtain a pension for herself and penalize her husband for her own matrimonial incompetence.

Under the Summary Jurisdiction (Married Women) Act, 1895, and the Licensing Act, 1902, S.2, a woman can obtain a

separation from her husband and an order for maintenance in cases of (*a*) assault, (*b*) desertion, (*c*) persistent cruelty, (*d*) neglect of maintenance, and (*e*) habitual drunkenness, hence it follows that if a woman is married to a man who is either a brute or a drunkard she can obtain what is practically a divorce minus the right to remarry. Similarly, if she is married to a criminal serving a term of imprisonment, or to an imbecile confined in a home or lunatic asylum, it may be presumed that she could, except in the case of a husband possessing private means, obtain a separation order on the ground of his failure to provide maintenance. It will thus be apparent that the greatest cruelty now inflicted by the law is due to the fact that the man or woman obtaining a judicial separation is condemned thereafter to lead an unnatural celibate life, or is at least precluded from legally remarrying.

In the seventeenth century Archbishop Cranmer condemned such separations as immoral and unchristian, and some of our most eminent public men of the twentieth century have equally condemned them. Thus, the late Lord Gorell declared that:

"It is desirable in my judgment . . . to express the conviction which has forced itself upon me that permanent separation without divorce has a distinct tendency to encourage immorality, and is an unsatisfactory remedy to apply to the evils it is supposed to prevent." [1]

The late Sir George Lewis, an equally great legal authority, said:

"I speak from very long and varied experience when I say that a man or woman who has been cruelly treated by wife or husband should be able to obtain not only a judicial separation, but the equivalent to what is now known as a 'decree nisi.' This should automatically become an absolute decree of divorce in six months or so." [2]

To this testimony Dr. Saleeby adds:

"As regards the effects of permanent separation without the power of remarriage, there is obviously room for only one opinion : and the

[1] Lord Gorell, in Dodd *v.* Dodd, 27th April, 1906.

[2] Sir George Lewis, in the *Daily Mirror*, 18th March, 1908.

expert voice can only emphasize what ordinary common-sense will say in condemning these atrocious separation orders." [1]

While Mr. Bernard Shaw states that :

"Both parties must be either married or unmarried. An intermediate state in which each can say to the other : 'Well, if I cannot have you nobody else shall,' is clearly against public morality." [2]

Despite this, however, the reforms recommended three hundred years ago are still delayed, probably because our legislators are under the impression that the evil is confined to such an infinitely small minority of the population as to be negligible—a conclusion, by the way, which is both immoral and scandalous.

In point of fact, however, the evil is very widespread. In the year 1920, 11,602 Police Court separations were granted in England and Wales, and in the year 1925, 9566.[3] This means an average of 10,584 Police Court separations per annum. To this must be added the private separation deeds drawn up by solicitors, which are estimated at between 2000 and 3000 each year, and to these again must be added the countless cases of desertion, and separation by mutual consent, in which neither of the partners seeks legal protection, but is nevertheless precluded from remarriage either because no ground for divorce (*i.e.* adultery) exists, or because one of the couple refuses to sue for divorce. Taking then an average of 10,500 judicial separations each year, 2500 private separation deeds and 2000 couples separating without recourse to law—which is generally conceded to be a very conservative estimate—we discover that no less than 15,000 couples are separated every year and condemned to live unnatural celibate lives. Now 15,000 couples means 30,000 persons, and very few of these persons die in the course of the ensuing year. Our figures, therefore, must be accumulative, and we cannot possibly be overestimating when

[1] Dr. Saleeby, quoted by R. T. Gates, *loc. cit.*, p. 35.

[2] Shaw, G. B., *The Intelligent Woman's Guide to Socialism and Capitalism*, p. 409.

[3] Quoted in *The Journal* of the Divorce Law Reform Union, No. 88, vol. viii.

we assume that at the present moment there must be living in separation in England and Wales alone a number of persons representing the accumulative results of at least fifteen years of average separations. This means that the number of separated persons is at least 450,000 or approximately half a million—the equivalent to the population of one of our largest cities.

From the point of view of positive morality, it is no more immoral to inflict inhuman cruelty upon half a million people than upon half a dozen, but from the prudential viewpoint it is infinitely more dangerous. An autocracy or a democracy, not troubled by morality, can ignore the sufferings of an infinitely small minority without endangering its authority, but when it is rash enough to oppress more than half a million of its adult population, it is, to say the least of it, playing with fire and courting disaster. The evil, moreover, is by no means confined to the half million persons actually affected; it is contaminating the youth of the country, causing it to scorn the morality of its seniors, firing it with burning indignation, and lighting the fires of radical revolt.

Modern Youth looks round and sees not only half a million persons suffering from inhuman cruelty, but also the general injustice, immorality, and insanity of our marriage and divorce laws. It recognizes that although a man is legally obliged, under penalty of imprisonment, to support his wife in sickness or in health, in employment or out of employment, whether she be efficient or inefficient as a wife, tolerable or intolerable, she is under no legal obligation whatever to assist or support him should he fall ill or out of employment—that, as far as the law is concerned, she can desert him in adversity as freely as a rat deserts a sinking ship, and then come back and prey upon him again the moment his fortunes revive. The modern young man realizes that such a partnership is no real partnership at all, and, fortunately, the rising generation of young women, who are economically independent and no longer mere human parasites, despise such a law as freely as do their male contemporaries. Again, the modern male youth has no respect for a law which makes him

responsible for his wife's debts, and even in some cases for her misdemeanours, and yet deprives him of every vestige of authority over her. In point of fact, he does not desire authority—his ideal of matrimony is an equal partnership—but he rightly resents the anomaly of an equal partner being granted an unfair advantage.

Similarly, the modern girl has no respect for a law which entitles a husband to cut a faithful and affectionate wife out of his will, if he be so minded, and she equally rebels against the by-laws and regulations which insist upon commercial and professional and publicly employed women, who are efficient at their work, being dismissed their employment the moment they are rash enough to marry. Again, the youth of both sexes highly resent being compelled, either explicitly or implicitly, to make solemn marriage vows of lifelong affection and fidelity when they fully realize that unforeseen circumstances may easily render affection an impossibility and turn fidelity into an inhuman bondage. To them, both the religious and the civil ceremonies seem to savour of hypocrisy and dishonesty, and they refuse to admit that either the Church or the State has the right to exact such unqualified vows as the price of the simple privilege of ecclesiastical or legal recognition of a natural association of the sexes.

Above all the modern youth looks askance at a contract which, no matter how unsatisfactory it may eventually prove, can be rendered irrevocable at the caprice of either of the contracting parties, and which can only, under the very best existing conditions, be dissolved by undergoing the disgusting ordeal of washing dirty linen in public, and upon one of the parties consenting to commit an official misdemeanour and so socially besmirch his or her character. The sacred and honourable estate of matrimony, in brief, appears to modern youth as being liable to prove profane as often as it proves sacred, or dishonourable as frequently as it proves honourable, and the rising generation is becoming increasingly indisposed to venture upon the troubled and highly treacherous waters of legal marriage, especially when, in addition

to all the serious disabilities and risks which we have enumerated, must be added the fact that an imbecile State further loads matrimony with financial disabilities. Two single people, youth discovers, are entitled to a larger joint income-tax remittance than is a legally married couple, and further, where two people possess individual incomes, such incomes are taxed at a lower rate than would be the case if they were married, owing to the fact that their joint incomes would then be assessed as one.

This latter point may seem trivial, but it involves an additional burden upon very young couples, and amounts to an idiotic discouragement of matrimony on the part of the State which, in the interests of the community, should offer every encouragement and inducement to legal marriages. In any case Youth is beginning to kick against the pricks—to revolt against the conservatism, obstinacy, prejudice, injustice, immorality, imbecility, and inhuman cruelty of our obsolete laws and, for the most part, aged legislators. Up to the present the conservatism of Old Age has retained the power to restrain the radicalism of Youth, but that power has now gone, never to return. The Revolt of Modern Youth differs radically from the revolt of youth in any past age. To quote Judge Lindsey again, "Youth couldn't get away with it then. It didn't have the economic independence. Now it has. . . . Once Youth paraded and shouted with a wooden gun; but to-day the weapon is loaded. Make no mistake about it; this revolt of Modern Youth is different; it is the first of its kind; and it possesses means for making its will effective." [1]

It is already doing this with regard to matrimony. Judge Lindsey states that "there are at least fifty thousand girls in New York living with men who are not their husbands." [2] At a conservative estimate there are an equal number living under similar conditions in London, *and their number is increasing.* Pre-nuptial chastity is becoming almost a thing of the past;

[1] Lindsey, B., *The Revolt of Modern Youth*, pp. 157-8.

[2] *Ibid.* p. 167.

unofficial trial marriages or trial cohabitations are becoming increasingly common among engaged couples, and an ever increasing number are favouring free unions. Nor does the mischief end here. Youth is completely contemptuous, not without cause, of our conventional morality and our antiquated matrimonial legalities. It declares that it could not produce, if it deliberately endeavoured to do so, a more immoral and unjust law, nor one productive of greater cruelty and suffering, than that at present governing marriage and divorce. And it intends to alter things—it has the power to alter them, and what is more it undoubtedly will.

At present Youth has scarcely recognized its power, and is more or less unorganized. But this will not last long. For better or for worse, for weal or for woe, we now enjoy a universal adult franchise, and young people in their twenties and early thirties can force the hand of any legislature when once they make up their minds to it. Those who have the perspicacity to recognize the signs of the times realize that this will happen in the very near future. And herein lies the supreme danger that Youth, over-zealous for reform and reacting to existing tyranny, may prove more iconoclastic than constructive. This will undoubtedly happen if our legislators and the older members of the community persist in meeting Youth's demands for reasonable liberty and reform with bigotry and unreason. Youth can be even more intolerant than Age, and nothing rouses its intolerance more than bigotry and unreason, hence it is highly probable, nay, practically certain, that the continuance of the present attitude of our legislators will drive Youth from the present extreme of tyrannical restraint to the opposite one of unlicensed liberty, and there can be but scant doubt that this would be disastrous for the future of matrimony. On the other hand, however, Youth is generally willing to recognize its own inexperience and to defer to the more mature experience of Age *when backed by reason and sympathy*. Thus, on merely prudential grounds, it is imperative that reasonable and moderate reform should be inaugurated forthwith. One thing at least

is certain, and that is the impossibility of continuing the present policy of *laissez faire*: reform of some sort is utterly unpreventable and cannot long be deferred, and it remains with ourselves whether such reform be moderate or drastic, beneficial or detrimental, progressive or reactionary.

XIV

PRACTICAL SUGGESTIONS RELATIVE TO REFORM

We have now seen that marriage and divorce law reform is both necessary and inevitable, and it remains for us to examine such reforms as have already been advocated by various individuals and organizations, and, in the event of these reforms seeming inadequate to the present requirements of society, to make such further suggestions as may appear necessary.

Professor Letourneau has enunciated the ideal of a "*régime* of monogamic unions, freely contracted, and, at need, freely dissolved by mutual consent." [1] This, however, is open to several practical objections. In the first instance, mutual consent to the dissolution of a marriage is comparatively rare, for it is a matter of human experience that one of the partners very often refuses to release the other even when a legal justification has been given. Women are admittedly the chief offenders in this matter—primarily because a wife is rarely, if ever, ensured the same standard of living by alimony or a maintenance allowance as she would be if she refrained from suing for divorce or a judicial separation. In brief, many women prefer an intolerable matrimony to a diminished income.

Again, women tend to be more vindictive than men. Man, as the history of the punishments meted out to adulteresses amply proves, has been capable of the most horrible cruelty to an offending wife in the past, but his vengeance has usually been summary, and executed in the heat of passion. Woman, on the other hand, not infrequently seems to be more cold-blooded in

[1] Letourneau, *loc. cit.*, p. 358.

her vengeance, and is capable of nurturing her malice to the end of her life, while the unsuccessful wife who has once taken the attitude " If I can't have him nobody else shall," rarely, if ever, relents.

Another objection to unlimited divorce by mutual consent is that it would tend to strip matrimony of any vestige of sanctity, for in the present state of human imperfection there would be every chance of marriage degenerating into a mere succession of monogamic unions, lightly entered into, and lightly broken, from sheer caprice. Monogamy under such conditions would be little better than polygamy, since it would very largely cease to be a true human society. A true mental and spiritual partnership and friendship between husband and wife is a matter of slow growth and would have scant chance of developing if the habit of a succession of monogamic marriages was once established. And it might very easily become established. Modern man is certainly not less erotic than were the ancient Romans, and if the unrestrained liberty of Roman divorce were again introduced, the possibility of birth-control and of the economic independence of married women might produce innumerable couples who could rival the record of the Roman couple cited by St. Jerome, namely, of a woman marrying her twenty-third husband, she being his twenty-first wife.

It may of course be argued that no law could prevent this sort of thing happening if people were so disposed—that you cannot make people moral by legal enactments. Up to a point this is true, but it is also true that legal enactments can encourage morality and definitely discourage immorality—that it is possible to protect both society and the individual. To take a simple example, driving a motor-car without lights at night, or at such a speed as to endanger the lives of pedestrians at any time, is definitely immoral and is dangerous both to society and the motorist himself. Lighting and speed regulations, by penalizing the offender, protect both society and the motorist, and there generally comes a time when compliance with these enforced regulations becomes so habitual and automatic that they would

be continued even if the original regulations were withdrawn. This is especially the case where experience proves such regulations to be beneficial. Experience, in the long run, would probably lead to such precautions being taken in the absence of the existence of any official regulations enforced by penalties, but it is also unquestionable that, long before such experience were achieved, innumerable other road-users, and possibly the offending motorist himself, would have paid for inexperience by forfeiture of life.

The analogy, though imperfect, is not devoid of significance. In motoring, speeding is pleasurable, and the lighting of lights in the older type of vehicle involved the trouble of pulling up and getting out—necessitating delay and an unpleasant task on a wet and inclement night. Similarly, in matrimony, sexual satisfaction is generally more or less immediate and pleasurable, and change may seem desirable, whereas the cultivation of a genuine friendship or a mental and spiritual partnership is a much more lengthy and tedious business. The temptation of the inexperienced, then, is to live in the present, and as nothing succeeds like success, and success in a sequence of marital partners and sexual satisfaction would be facilitated by unrestricted divorce, innumerable couples would undoubtedly be encouraged to go through life without learning from experience those benefits that are attainable only in a durable partnership. This would be detrimental both to the couple themselves and to society; it might adversely affect the birth-rate, and even if it failed to do this, it would, under present conditions, be disadvantageous to the children.

The same objection which applies to unlimited freedom in divorce applies also to Judge Lindsey's proposal of companionate, or trial, marriages. We have the greatest possible admiration for Judge Lindsey, and we are fully convinced that he has made his proposal with a view to obviating existing sexual laxity. For ourselves, however, we quite frankly prefer the existing laxity to its proposed remedy, and share the sentiments of the missionary in the play *White Cargo*, who actually advised another character

to enter into a temporary liaison with a half-cast libertine in preference to marrying her. In many cases members of the audience were offended by this advice, but in our view it was singularly enlightened, since the relationship existing or capable of existing between the man and the half-caste could never have been a true matrimony. Admittedly the relationship recommended was irregular and, according to nominal social conventions, immoral, but we emphatically state that cohabitation, whether moral or immoral, does not constitute a true matrimony, and that evil rather than good will result from any attempt to confuse the two relationships. Companionate marriage may, and in many cases would, result in true marriages, but so also do innumerable free unions, while free unions of the "companionate" type are rendered neither moral nor immoral by the simple expedient of social or legal recognition.

On the other hand, however, companionate "marriage," if once it won social recognition and approval, would tend to become the rival of true marriage, and the habit of forming innumerable and transient attachments would tend to encourage the idea that marriage was nothing but a recognized sexual association, whereas by continuing to discriminate between a marriage and a transient amour individuals will constantly be reminded that a material difference exists between them, and true marriage will consequently be invested with that higher dignity and sanctity which it unquestionably merits. Furthermore, all the advantages which Judge Lindsey hopes to attain by the adoption of his proposal could be attained by less drastic reforms, such as we propose to outline, and without exposing the dignity and sanctity of marriage to the grave risks which we have indicated.

We will now turn to some of the official recommendations for reform which have been advanced both in this country and in America. In Great Britain, the general principles which should ideally govern reform were ably laid down by the late Lord Gorell in his evidence before the Royal Commission. The State, he declared, should consider what law should be laid

down in the best interests of the whole community and should be guided by two principles: (1) no law should be harsh enough to lead to its disregard and (2) no law should be so lax as to lessen the regard for the sanctity of marriage.[1]

With these principles few intelligent persons will quarrel, but unfortunately the majority report of the Commission, for reasons which we shall discuss later, fails to satisfy the first principle. Thus, the report advises that the law should be amended so as to permit of divorce on the following grounds: (1) Adultery, (2) Desertion for three years and upwards, (3) Cruelty, (4) Incurable insanity after five years' confinement, and (5) Imprisonment under a commuted death sentence,[2] but it also permits of judicial separations—divorces *a mensa et thoro*—and offers no relief in cases where one of the partners vindictively refuses to free the other.

The Model Law, published in the United States Census Report, 1867-1906, and quoted in one of the Appendices to the Report of the British Royal Commission,[3] presents many points of similarity to the recommendations already considered, and suffers from the same weaknesses. Thus, Article 1 gives as causes for annulment:

(*a*) Incurable physical impotency, of which the party making the application was ignorant at the time of marriage.
(*b*) Consanguinity.
(*c*) Fraud, force or coercion.
(*d*) Either of the contracting parties already married.
(*e*) Insanity, providing that the party *compos mentis* was ignorant of the other party's insanity.
(*f*) At the suit of a wife married under the age of 16.
(*g*) At the suit of a husband married under the age of 18.

The Model Act further provides for divorces of two kinds: (1) *A vinculo matrimonii*, and (2) *A mensa et thoro*, and sanctions the first type of divorce only for the following causes:

[1] *Evidence of the Roy. Comm. on Divorce and Matrimonial Causes*, vol. iii.
[2] *Majority Report of the Royal Commission*, p. 163.
[3] *Appendices to the Report of the Royal Commission on Divorce*, pp. 189 ff.

(*a*) Adultery.
(*b*) Bigamy.
(*c*) Conviction and sentence of crime, imprisonment extending over two years, or in the case of an indeterminate sentence the right of divorce after one year.
(*d*) Extreme cruelty by either husband or wife, endangering the life or health of either party and so rendering cohabitation unsafe.
(*e*) Wilful desertion for two years.
(*f*) Habitual drunkenness for two years.

That divorce should rightly be granted for any of the above causes most open-minded persons will readily agree, but this, however, does not render the Model Act or the Majority Recommendations of the Royal Commission ideal. The primary object of society and of the law, we take it, is to obviate crime rather than merely to punish it, and in any case to minimize the suffering of the innocent. Why, then, it may legitimately be asked, should one of the parties to a marriage be compelled to remain the victim of a drunken degenerate for two whole years before being enabled to obtain freedom, or to suffer demonstrable violence, even to the extent of endangering life or health ?

The weakness of the Model Act, like that of the Majority Report, lies not only in the fact that in addition to true divorces it admits of semi-divorces, which are both immoral and pernicious, but also because it utterly fails to touch the real roots of matrimonial disaffection. The vast majority of intolerable marriages are not due to brutality, drunkenness, insanity, licentiousness, or crime, but to sheer incompatibility, and this aspect of the problem is not even considered.

An examination of the statistics of any of the countries in which the legal grounds for divorce are adultery, desertion, drunkenness, cruelty, imprisonment or insanity, will at once reveal the fact that the overwhelming majority of suits are based upon charges of adultery or desertion. The explanation is obvious. Comparatively few persons develop marked criminal tendencies or turn suddenly into hopeless drunkards, brutes, or incurable idiots after marriage—such pronounced character-

istics or tendencies can rarely be concealed during a normal engagement—hence it must be concluded that, when an ordinary decent husband or wife deserts or seeks to divorce his or her partner, the true reason for such conduct is matrimonial dissatisfaction, and that desertion or adultery is chosen as being the least objectionable of the legal remedies available.

Rightly or wrongly the law, since it classifies desertion and adultery with crime, brutality, and drunkenness, considers both these offences to be misdemeanours, yet the effect of these laws, recommended as " model," is to place a positive premium upon the committal of a legal misdemeanour—relief from intolerable matrimony being granted upon no other grounds. Such laws, however, not only incite to legal misdemeanours, but also tend to foster a general contempt of law. Collusion technically prohibits divorce, yet a very large percentage of divorces necessarily result from collusion; desertion is frequently a matter of private arrangement between the couple seeking divorce, the wife being ensured adequate support; while much of the so-called evidence of adultery is admittedly faked, and the legal requirements in this matter have enabled innumerable harlots or semi-harlots, as Mr. Galsworthy has shown,[1] to earn considerable sums of money by obligingly staying at a convenient hotel with a man seeking divorce and thus providing him with actual or simulated evidence of adultery.

We are thus led to formulate the following proposition: *That as marriage is an ideal human society, the success of which is dependent upon physical, mental, temperamental, and spiritual compatibility, and as such compatibility cannot adequately be estimated except by prolonged cohabitation, human marriage must necessarily remain highly hazardous, and hence, in the interests of the individuals and society, reasonable facilities for divorce must always be granted. It follows, therefore, that as the primary object of divorce is remedial it should be made honourable and dignified, and that any law permitting of divorce only upon the committal of a legal misdemeanour must necessarily be immoral and*

[1] Galsworthy, J., *The Skin Game*.

unjust, since it explicitly demands the committal of such a misdemeanour as the sole authorized avenue of escape from an intolerable matrimony.

What, then, is the alternative to the Model Law of America and the recommendations of the British Royal Commission? The answer would appear to be self-evident, namely, incompatibility. But incompatibility can be an extraordinary elusive thing! What ordinary human court could possibly assess it? Applications might be made on the most frivolous or most serious grounds, on the lewdest or most sacred. And what a spectacle for the vulgar-minded! There remains in human nature a primitive streak of sheer morbidity. Mr. Galsworthy recently wrote a play dealing with a suicide, to which was added the spice of an illicit love affair.[1] In this play the so-called popular press gloated over the tragedy and blazoned it forth in headlines—it came during the slack season, and was a veritable godsend. The general public flocked to the inquest, which one character callously referred to as "the show."

The play naturally received a hostile reception. A certain section of the press was unanimous in its execration—most critics had no alternative if they were to remain loyal to their respective journals—and many of the public denounced it almost as fiercely as did the newspapers. Such a reception was only to be expected. Mr. Galsworthy had hit out straight from the shoulder and had struck an extraordinarily tender spot, for among the uncultured—both of Mayfair and Mile End—there remains a strong love of the morbid. This will reveal itself upon the slightest provocation, as witness the scenes which accompanied the revival of public executions in France a few years ago, and as is also proved by the fact that in England and America a crowd will immediately and invariably congregate upon the scene of any gruesome crime or accident, or will assemble around a prison at the hour of the execution of a criminal for the sole satisfaction of seeing a notice posted, or a black flag hoisted, or hearing a bell tolled. And if these crowds usually consist of

[1] Galsworthy, J., *The Show*.

the so-called lower classes, it cannot be said that these are the classes which crowd the fashionable divorce courts in England and America when a particularly salacious case is up for hearing.

These are facts which cannot be denied, and realizing this, is a decent and probably highly sensitive man or woman to be called upon to strip bare his or her heart in a public court for the delectation of vulgar idlers? "No fouler institution was ever invented," wrote Auberon Herbert, "and its existence drags on, to our deep shame, because we have not the courage frankly to say that the sexual relations of husband and wife, or those who live together, concern their own selves, and do not concern the prying, gloating, self-righteous, and intensely untruthful world outside." [1] Similarly, Selden wrote, "Of all actions of a man's life, his marriage does least concern other people; yet of all actions of our life 'tis most meddled with by other people." [2]

We do not make a man's change of religion subject to State or legal interference, and there is no reason whatever why a matrimonial change should be so subject, always excepting the fact that the State has the right to intervene in the interests of public morality and in the interests of the offspring of a union. To put the matter in plain English, no judge or jury is sufficiently competent or has the right to adjudicate in a case of incompatibility—the sole persons competent to do this are the individuals concerned. In point of fact, the only reason why society—as represented by our legislators—strives to continue to make divorce dependent upon the committal of a misdemeanour and subject to a public ordeal is because it is obsessed with the insane idea that the formality of indissoluble matrimony must be preserved at all costs even though heaven and earth fail.

Make divorce decent and honourable, rob it of all stigma or odium, and you automatically make it easier and deprive marriage of its sanctity, they argue. To these people it matters not what foulness or immorality the institution may conceal, providing only

[1] Quoted by Dr. Geikie-Cobb, in *Marriage*, a pamphlet issued by the press of the church of St. Ethelburga.

[2] Selden, *Table Talk*.

that some outward semblance of decency be maintained. Better, our legislators argue in effect, to have a large army of halt, lame, blind, and physically botched, than a small and efficient army of fit and healthy soldiers—it looks better, at least from a distance. And yet we call ourselves a Christian nation: the followers of Him who poured scorn and righteous indignation on those whom He likened to whited sepulchres, "which indeed appear beautiful outward, but are within full of dead men's bones, and of all uncleanness." [1] It is indeed but scant wonder that we have earned the unenviable reputation of being a nation of hypocrites!

This pretence of keeping up appearances at all costs has degraded matrimony, brought it into contempt, and dragged it down into the mire, for the law literally renders impossible the dissolution of countless thousands of unions which have been rendered nauseating and intolerable by the absence of any affection or physical or mental compatibility. One partner may seek freedom, but the other, actuated either by motives of malice or avarice, is empowered to withhold freedom even when a legal misdemeanour has deliberately been committed in the desperate hope of severing the detestable bond, and the law offers no remedy. It is but scant wonder that Youth is saying, " Better no marriage at all than foul and depraved relationships of this kind," and it is unquestionably true that our legislators, in their blind efforts to artificially bolster up matrimony, are undermining its very foundations.

" Divorce is a recognized necessity," writes Mr. A. G. Hays. "Its present increase may not be due to more unhappy marriages, but to the fact that people are doing something about it." [2] This is undoubtedly true. Increased divorce is due to the increased, and higher, and more exacting demands of matrimony —a higher standard of morality—and to the fact that people are doing something about it; demanding increased divorce facilities. This argues not a decline in public morality, but a definite

[1] Matthew, ch. xxiii., v. 27.

[2] Hays, A. G., in *Physical Culture*, vol. lxi., No. 2, p. 133.

advance. The question that the legislator or moralist should ask himself is not "Are divorces becoming more frequent?" but "Are married couples living happier, healthier, cleaner, more moral and more efficient lives than hitherto?" To this question Mr. Havelock Ellis unhesitatingly replies, "The lands in which divorce by mutual consent has prevailed longest are probably the most, and not the least, moral of lands." [1] Similarly Premier Zahle, in introducing the new Danish divorce law—permitting, among other things, of divorce by mutual consent—said: "It is based on the fundamental conception that it is morally indefensible to maintain a marriage relation by legal statute when all the real bonds between the parties are broken. This is a measure which certainly means a great step forward in the recognition of marriage as a moral relationship." Mr. Arthur Garfield Hays, a well-known New York attorney, who quotes this speech, also approves of freer divorce facilities, and points out that divorce by mutual consent ultimately means divorce at the desire of either of the parties. "Modern society," he writes, "has been moving towards freedom of contract in marriage. Those phases which concern the state, such as economic provision and children, must be conserved. But time was—and still is in some places—when marriage itself was a tribal or state matter. . . . To-day when people have come to recognize the necessity of sexual and social compatibility, which cannot be determined in advance, there has come a demand for further freedom of contract, to which society has responded by more liberal divorce laws. . . . They (these laws) mean in effect that a contract of marriage contains an implied term that it is to continue until the parties consent to its end, and in human relations this means *until one party demands its end.*" [2]

In view of these facts, we would suggest that divorce reform should be governed by the following principles:

(1) That divorce being remedial should forthwith be deprived of all stigma and indignity.

[1] Ellis, Havelock, *The Psychology of Sex*, p. 460.

[2] Hays, A. G., "Modern Marriage and Ancient Laws," in *Our Changing Morality*, pp. 28-9.

(2) That the only persons capable of deciding the advisability of divorce are the persons themselves concerned.
(3) That permanent separations are unjust and immoral, and productive of countless evils.
(4) That neither of the partners should be empowered to deprive the other of freedom, either from motives of jealousy, malice, avarice, or mere disinclination.
(5) That adequate provision should be made for the children of a union, if any, and that justice should be ensured to the wife.
(6) That the law, while ensuring reasonable liberty to the individual, should also be so framed as to preserve the dignity and sanctity of marriage.

We will now endeavour to apply these principles. Divorce by mutual consent, as we have seen, is impracticable, and not the least so because it is left to the caprice of either of the partners to preclude its possibility, while it might further, as Lord Gorell pointed out to the Royal Commission, give rise to the practice of one of the partners hectoring or ill-treating the other with a view to coercing him or her into giving unwilling consent. It remains, therefore, that divorce must be made obtainable at the desire of either of the partners, and not dependent upon mutual dissatisfaction, and that this claim for divorce should be legalized without the individual having to justify his or her motives before any court or tribunal. How, then, could this be effected ?

Very simply, we would maintain. Our readers will remember that one of the oldest methods of marriage in ancient Rome was by *usus*, or by continuous cohabitation for the period of one year. Now it is quite obvious that if a marriage could be rendered legal by *usus*, a divorce could similarly be rendered legal by default. In point of fact, moreover, something of this nature already exists, for a frequent preliminary to divorce proceedings in this country is the filing of a petition for a restitution of conjugal rights. The real object of such petitions was clearly indicated by the late Lord Gorell. " It must be remembered," he declared, " that the avowed object at the present time, in the vast majority of suits for restitution of conjugal rights by wives, is not restitution at all . . . but in the event of

non-compliance with the decree on the part of the respondent (husband), and with the further offence on his part of adultery, to obtain a divorce." [1]

The withdrawal from conjugal life, then, is already recognized as a part ground for the granting of a *decree nisi*, and there exists no cogent reason why it should not be made the sole ground. We would suggest, therefore, that conjugal default on the part of either of the partners for the period of one year should constitute the legal ground for the granting of a divorce, and that this should be granted by an Official Registrar—the local registrars of births, deaths, and marriages might easily be empowered to undertake the work. Such a divorce, furthermore, should be obtainable for a sum no higher than such as would be required to cover a reasonable fee for the Registrar and the actual cost of implementing the document.

As regards actual procedure, we would suggest that all local registrars should be supplied with Official Forms of Withdrawal from Conjugal Life. These forms should have printed on the reverse side full information relative to the law governing withdrawal from conjugal life, the granting of divorce, and divorce settlements, and they should be obtainable upon payment of a nominal fee. A husband or a wife desirous of a divorce would be required by law to obtain and fill in two of these forms, and to hand them in to the registrar's office. One copy would be filed and recorded by the registrar, and the second would be officially posted to the husband or wife of the applicant. The person filing the Withdrawal would then be required to retire from connubial life, and also, in the event of a husband, to make such regular payments to his wife as stipulated by the law. At the expiration of twelve calendar months from the date of the filing of the Notice of Withdrawal, the registrar would be required to exhibit outside his office a notification of the fact that a divorce would be granted to the persons named on the expiration of three weeks (the delay at present required in connection with banns of marriage), and he would also notify both the parties

[1] Gorell, Lord, in the case of Kennedy *v.* Kennedy, 1907.

concerned. On the stipulated date, if no evidence of a return to conjugal life had been filed, the applicant would be required to appear at the registrar's office, and, upon paying the legal fee, would be handed his or her decree of divorce, while a duplicate of the document would be posted to the other partner. In the event, however, of a return to conjugal life during the intervening twelve months being alleged and contested, the matter would immediately pass beyond the registrar's jurisdiction, and a decision would have to be obtained in the local court.

The foregoing procedure would obviate the necessity of either a husband or a wife having to commit a legal misdemeanour in order to obtain a divorce, and, since the law would make the molestation of either party by the other a criminal misdemeanour after a Notice of Withdrawal from Connubial Life had once been filed, a wife or a husband would be automatically protected from further persecution by a brutal, drunken or dissolute spouse. It would also afford relief in cases of insanity and imprisonment; in brief, divorce procedure would be rendered infinitely simpler, cheaper, and more equitable. Such a divorce law, moreover, would fully vindicate the first four principles which we advocated in connection with reform.

As the fifth principle which we suggested deals with finance and will necessarily be the most complex, we will confine our attention for the time being to the sixth, which is concerned with safeguarding divorce law from abuse and preserving the dignity and sanctity of marriage. This might be accomplished in two ways: (*a*) free divorce might be subjected to reasonable State limitations, and (*b*) the marriage law might be modified so as to minimize the chances of mismatching.

Free divorce, subject to no limitations whatever, might easily cause marriage to degenerate into a mere succession of monogamic unions and bring it into disrepute: the task of our legislators, therefore, is to find a mean between the extremes of harsh restraint and unlicensed liberty. How this might be attained was suggested recently by one of the judges of the United States, who, commenting upon the unquestionable evil

of frequent and capricious divorces and remarriages, suggested that the State might advantageously limit the number of divorces obtainable by any one person. This suggestion seems to us to be both just and reasonable. A man and woman may easily make an initial mistake in matrimony, they may, if particularly unfortunate, even make a second or third, but if after having been granted three chances they still prove to be matrimonial failures, society may be entitled to assume that such persons, having been granted considerable opportunities and having failed upon each occasion, have fully demonstrated that they possess no aptitude for marriage, and to have therefore forfeited the right to any further concessions—that further experiments, indeed, might endanger the happiness of future partners, and bring marriage into disrepute. We would suggest, therefore, in the interests of society and for the preservation of the dignity of marriage, that no individual should be able to obtain more than three divorces, and that a fourth marriage on the part of any person should constitute a criminal offence and be punishable by a term of imprisonment.

As a second reform, with a view to preserving the dignity of marriage and minimizing the risks of mismatching, we would suggest that greater precautions should be taken in the solemnization of marriages. The simplest way to do this would be (*a*) to abolish the existing insane actions for breach of promise—any funds advanced by one party to the other, or expenses incurred directly attributable to an agreement of marriage, being reclaimable by ordinary civil procedure; (*b*) to make all marriages subject to three weeks' delay—as is the case at present with marriages by banns; and (*c*) to make it a legal requirement for each party to make a statutory declaration. This declaration would be made on a legal form obtainable from either a clergyman or the local registrar, and both parties should be required to exchange and read each other's declarations in the presence of the clergyman or registrar before the banns were announced or a notification of marriage posted. These declarations, moreover, should be made under oath, both the officials

mentioned being granted the powers of a commissioner of oaths in this matter, and the forms should contain the following information: (1) the candidate's full name; (2) address; (3) age; (4) occupation; (5) income; (6) whether or not an undischarged bankrupt; (7) convictions of crime, if any, the nature of the charge and the sentence inflicted; (8) if either of the candidates' parents or grandparents have been certified insane; (9) the number of times the candidate has been divorced, and upon whose application the divorce or divorces were granted, and (10) a certified medical report on the candidate's health.

These declarations would be made in the couple's own interests, and would do much to obviate the possibility of either of the parties being enticed into matrimony through misrepresentation, for the form would explicitly state that a false declaration would be punishable by a term of imprisonment and the annulment of the marriage. On the other hand, however, no one save the couple themselves and the official concerned need be informed of the contents of the form, but each partner should retain the other's declaration in case of future need. Finally, in order to ensure that every marriage had a fair trial, we would recommend that no divorce should be granted to a married couple until the expiration of two years from the date of their marriage. This would involve a year of connubial life in addition to the statutory year's separation, or withdrawal from intercourse. With a view to obviating hardships, however, it should be legitimate for either of the partners to withdraw from connubial life before the expiration of the first year, and to file a penultimate notice of withdrawal. This notice would secure freedom from molestation, and would be governed by the same regulations as those governing ordinary notices, and this would be invaluable in cases of drunkenness, brutality, and so forth. The ordinary notification of withdrawal would then be filed a year after the marriage, and further procedure would be the same as in ordinary cases.

We will now proceed to consider our fifth principle, namely,

that adequate provision should be made for the children of the union, and that justice should be ensured to the wife. In an ideal State, the children of a union would probably be supported either by the State or by the joint contributions of the parents. At the present time, however, we are a long way from a Utopia, and it is an accepted principle that the State should not be required to support children when the parents are in a position to do so themselves. Under present social conditions, moreover, the husband is regarded as the bread-winner of a family and is held to be responsible for the support of his children. It is undoubtedly unjust that he alone should be charged with this responsibility, but it is difficult to see how any drastic changes could be made in existing arrangements without an equally drastic change in the organization of society. For the purpose of immediate reform, then, we would suggest that, although the father alone should still continue to be held financially responsible for the support of his children after a divorce, this responsibility should be subject to certain minor modifications.

The first important problem, however, is to decide what should constitute adequate support. Two principles would here seem to emerge, (*a*) that the children should be protected from actual privation, and (*b*) that they should not be penalized for their parents' matrimonial failure—that is to say, that they should not have a less amount expended upon them than would have been the case if their parents had remained together.

In the matter of minimum support a precedent already exists in those State regulations providing for the maintenance of illegitimate children. In the case of an illegitimate child, the Court usually orders the father, when paternity can be proved, to pay to the mother the sum of ten shillings a week towards its support. If there are twins or subsequent children, however, the contribution payable by the father in respect of a second or subsequent child is usually somewhat lower than that payable in respect of the first. This subsequent payment is usually in the vicinity of seven shillings, and we would tentatively suggest that, in the case of the legitimate children of a divorced couple, the

minimum contribution made by the father should be ten shillings in respect of a first child, and seven shillings in respect of each subsequent child.

These official figures, however, are not only useful in fixing the minimum contribution which should be made for the support of the children but also in arriving at a fair estimate of what would have been contributed to the children had no divorce taken place. So far as we have been able to discover, the average salary of married men among the labouring classes is in the vicinity of £3 10s. per week, and the average family would seem to consist of five—the husband and wife and three children. Applying the State regulations governing the amount of contribution payable by a father to the support of his illegitimate child or children to the legitimate children of the average working man, it will be seen that the three children of a typical family represent an expenditure of ten shillings in respect of the eldest child, and a further sum of seven shillings each in respect of the two younger children, thus making a total of twenty-four shillings in all. This means that approximately one-third of a working-man's salary is devoted to the support of his children in the case of families of the size and type which we are considering, and inquiries have shown that this sum actually represents the average expenditure on the children in such families. Still working on this basis, we discover that the first child represents an expenditure of one-seventh, and each subsequent child one-tenth of the man's total income. We would suggest, therefore, that this basis of contribution might be made applicable to the husband's compulsory minimum contribution to his children's support in all cases of divorce.

Under such regulations the lowest contribution which a divorced husband would be compelled to contribute towards the support of a single child would be £26 a year; that is to say, he would be treated on the fractional basis as though he were earning £182 per annum, while if he were in receipt of a larger income he would be compelled to make a higher contribution. This minimum contribution, moreover, would be payable until

his child reached the minimum age of fourteen, and the age limit would proportionately rise with the scale of higher contributions. It would be only fair, however, that since a minimum contribution has been fixed irrespective of whether or not a man is actually earning as much as £182 a year, that a maximal limit should also be fixed to the amount of contribution the father may legally be compelled to make—an ordinary father who has not been divorced and who possesses an income of, say, £70,000 a year most certainly does not habitually expend £10,000 per annum upon his eldest child. As we have tentatively fixed the minimum contribution legally claimable at £26 per annum, then, we might similarly fix the maximum at £260 a year in respect of the eldest child, and £182 in respect of each subsequent child. Similarly, as the minimum amount is claimable until the age of fourteen, the maximal amount might be claimable until the age of twenty-one. The difference in the minimum and maximum contributions being £234, and the difference in the ages up to which such amounts are payable being seven years, would mean that the husband should be required to support the child for one additional year in respect of every £33 contribution legally claimable from him over and above the minimum. Thus, if he earns £182 per annum, or less, he will be compelled to contribute to the support of his eldest child £26 a year until it is 14 years old; if he earns £1,820, or more, he will be obliged to pay £260 a year until the child is 21 years of age; and there will be a fixed sliding scale between these two limits. It should be provided, however, that if the divorce is sought by the wife, and she possesses a personal income and does not take custody of the children, she should be compelled to contribute to the support of the children an amount up to one-half of the legal contribution demanded from the husband, and that her contribution in such cases should be proportional to her income. No parents, of course, would be precluded from making any contribution in excess of the legal maximum.

We now come to the more vexed question of the custody of the children. In the present state of society, young children should

unquestionably be under the charge of the mother and, as we do not wish to complicate our simplified divorce procedure, we would suggest that she should automatically be granted such custody when either partner withdraws from conjugal life, and also after a divorce has been granted, but that she should be entitled to refuse such custody, should she so desire, in the event of the husband and not the wife being the applicant for divorce. It should be provided, however, that the husband should be entitled to apply to a magistrate's court for an order depriving the mother of the custody of the children in cases where she seems to be an unfit person (*i.e.* drunken, dissolute, or brutal), or where she appropriates any material amount of the contributions made to her for the support of the children, or where she deliberately poisons the children's minds against the father. It should also be provided that the father should (if a fit person) have reasonable access to his own children, and that he may require them to live with him for any period up to two months in any one year.

These last two points are especially important. "While in ordinary cases a woman is no doubt entitled to custody of the children," writes Mr. A. G. Hays, "yet support by a man should give him some rights. There is an advantage to both father and children in close personal relationship. If that were a condition of provision, one could be reasonably certain that the woman would not alienate the children from the father. If the penalty of alienation were . . . a greater proportion of the custody to the father, we would, no doubt, find only one woman in ten thousand who would willingly influence the child's mind against its father." [1] This, however, is not the case at present. "Thousands of children in the United States," continues Mr. Hays, "are growing up with a bitter resentment against a father who has been painted black to them in their early and impressionable years. There are always two sides to a case, yet the children are incapable of knowing or understanding until their prejudices are thoroughly developed." [2]

[1] Hays, A. G., *loc. cit.*, p. 133. [2] *Ibid.* p. 133.

It is unquestionable that this also happens in England, but the risk of this would practically be obviated if the penalty for attempted alienation of the children *from either parent* deprived the offending person of all further custody or right of access. Such charges, as we have indicated, would be a matter of civil procedure, with the right of appeal to a higher court if necessary.

We will now consider the question of financial provision for the divorced wife. If a literal equality of the sexes, such as many feminists presuppose, existed; if women were economically independent; if both spouses equally contributed to the joint household expenditure; if women did not bear children; in short, if a hundred and one things did not happen which actually do happen under existing conditions, any such thing as alimony or a financial bonus or pension for a divorced wife would be rendered unnecessary.[1] The present system is admittedly unjust. "In New York State," writes Mr. Hays, "children must support their parents if the parents are unable to maintain themselves by work. As opposed to those to whom we owe our existence, wives are entitled to pursue their husbands if the latter neglect to provide for them according to their means. In other words, children are obliged to support their parents only if the parents cannot work, but husbands are obliged to provide for wives in the style to which they have become accustomed under penalty of jail or contempt of court, and irrespective of whether the wives work or not." [2] In England, the system is, if possible, even more immoral, for a man is compelled to support his ex-wife, as in New York State, but is under no necessity whatever of supporting his parents. Yet despite all this, a woman invariably is, and probably always will be, somewhat handi-

[1] In modern Russia, under the Soviet laws, no alimony is granted to a wife in cases of divorce, and both husband and wife are entitled to support if either is incapacitated for work. "The Russian state," writes Miss Elsie C. Parsons, a Lecturer in Sociology at Barnard College, "has interested itself not in maintaining the proprietary theory of woman; but in providing for the care of man or woman in distress" ("Changes in Sex Relations," in *Our Changing Morality*, p. 42).

[2] Hays, A. G., *loc. cit.*, p. 66.

capped by divorce, and therefore deserves some compensation, but the problem is to assess this on an equitable basis.

All suggestions of penalizing the man in cases of divorce must obviously be ruled out. "There is a growing recognition of the fact that differences leading to divorce are mutual," writes Mr. Hays, "that the relationship becomes intolerable when people lose their 'taste' for each other. . . . What is the fair thing to do in the circumstances? . . . If the question of alimony becomes one of equity rather than of public policy, public protection or contract, the considerations apply to alimony to a man, as well as to a woman, in those rare cases where conditions are reversed. What does a woman give up when she marries? First, she usually gives up the opportunity of making a living or of developing her own career. If she does not give it up, she hampers it. . . . Secondly . . . by marrying one man she loses the opportunity of marrying someone else. As a matter of fact . . . a man also gives up his chance to marry someone else." [1]

The fact that a woman by marrying one man gives up her opportunity of marrying another, does not, except in cases where a woman has been married for a considerable number of years and is well past her prime, merit any serious consideration. The man, as Mr. Hays rightly points out, also gives up a similar opportunity, and no discrimination can be made between the case of the man and the woman unless we are prepared to attach an entirely fictitious value to virginity. The history of human marriage conclusively proves that, in primitive societies, young and attractive widows or divorced wives experienced no difficulty whatever in remarrying, and the statistics of modern countries (cf. the number of widows who remarried in England during and after the war, despite the shortage of men and excess of unmarried girls) prove conclusively that the modern man has no objection whatever to marrying a woman who has been married before, provided that she is reasonably young and attractive. In point of fact, the young woman who complains

[1] Hays, A. G., *loc. cit.*, p. 132.

that her matrimonial prospects have been ruined by a previous marriage is invariably unattractive and difficult to live with—the sort of woman who has "muffed" one opportunity, and realizes it is improbable that she will get another. The man who married her may have been "a bit of a muggins," but that constitutes no reason why he should be penalized for the rest of his life for his ex-wife's unattractiveness and lack of *métier de femme*.

On the other hand, however, when a woman who has been married for a number of years and is well past her prime is divorced, she undoubtedly finds it difficult to remarry or to take up an economic career, and since such a woman, under the reforms which we propose, must obviously have proved a satisfactory wife for a considerable period, she is most certainly entitled to a very material compensation or pension. Again, where there are children, and the mother has their custody, they may handicap her future matrimonial prospects—more childless widows marry than do those with children—but since we have already provided that a divorced wife may, if she so desires, turn the custody of the children over to the father in cases where the divorce has been sought by the husband—this freedom should always remain open to her—the fact that she has children is hardly likely to imperil her matrimonial prospects.

It remains, then, that the most serious handicap that a divorced woman suffers is due to her difficulty in obtaining suitable employment after leaving professional or commercial life for a protracted period, and also to the fact that such absence may involve loss of seniority or opportunities of promotion. In some cases, of course, the woman may never have earned her own living and be incompetent to do so. This, however, is certainly not the husband's fault, and there exists no cogent reason why he should be penalized for his wife's incompetency or her parents' foolishness. On the other hand, there are some women who have not sacrificed their commercial or professional careers during their married life, but as such women have undoubtedly contributed to the joint exchequer they are

certainly entitled to some compensation, and should not be penalized for the assistance which they have rendered.

The first and most important financial consideration, then, is that concerned with the support of the wife for a period sufficiently long to afford her a reasonable opportunity of obtaining employment or remarrying. For this reason we have already recommended that a husband should be compelled to support his wife for one year after his or her withdrawal from connubial life pending the granting of the final divorce. We would suggest, furthermore, that the amount of this support should be fixed at one-third of the man's remaining income after deduction has been made of any compulsory contribution which he may be making to his child or children. Thus, if a man were earning, say, £350 a year, and possessed one child, he would be compelled, in the event of his or his wife's withdrawal from conjugal life, to pay £50 a year towards the support of his child (one-seventh of £350), and £100 (£350 − £50 ÷ 3) to his wife during the ensuing year.

It should further be provided, in cases where a man's wife was pregnant at the time of her withdrawal, that the compulsory interim support should be continued until the child is two years old, and that this arrangement should also hold good in the event of a withdrawal taking place when any child of the couple is less than one year old. Thus, if either withdrew from conjugal life when a child was five months old, the husband would be compelled to grant interim support to his wife for the normal period of one year plus seven months—that is until the child reached the age of two. This additional support, however, would only be compulsory when the mother had the custody of the child and where the husband was the actual parent, and it would cease to be compulsory in the event of the mother remarrying. The equity of this additional period of full support will be apparent—a nursing mother cannot possibly leave her child in order to go out to work, and she cannot reasonably hand it over under two years of age to the care of someone else without the child being seriously handicapped.

We will now consider the question of some form of financial compensation for a woman in return for long service as a wife. This service has presumably been adequately rewarded both financially and otherwise during the actual period of her wife-hood, hence the object of any further benefit should be compensation for her presumably diminishing matrimonial prospects, her sacrifice of an independent commercial or professional career, and the loss of any possible pension to which she might otherwise have been entitled. It will be nearly impossible to estimate the actual financial loss which her matrimonial career has involved, but it may safely be assumed that in the vast majority of cases her earning capacity would not be greater, but generally somewhat less, than her husband's. We propose, therefore, to presume that it is slightly less, and to estimate compensation for the wife at a very slightly lower rate than that which a husband might obtain as his retiring salary for a similar period of service under the most advantageous conditions.

Here, official figures may again help us. The Civil Service scale of pensions, and especially the Colonial Service scale, is probably as generous a pension scheme as exists anywhere, and in this service it is sometimes the practice to allow a pension of fifteen-sixtieths of the servant's retiring salary in respect of ten years' service, and to allow an additional one-sixtieth in respect of each year's service above the minimum of ten years and up to a maximum of twenty-five years. In actual practice, however, retirement is seldom permitted at the end of this minimum period of ten years except in cases of ill-health or exceptional circumstances. Despite this we would tentatively suggest that these exceptional cases should be treated as normal and that the Service scheme, with minor modifications, should be made applicable to the pensioning of a wife; that she should be granted a pension after not less than ten years of married life; that this pension should be based upon the husband's income during the last year of their married life, and that it should consist of ten-sixtieths of that income in respect of ten years of married life, and a further one-sixtieth for every additional

year up to a maximum of twenty. This would mean that if a man divorced his wife after ten years, and his income was £360 a year during the last year the couple lived together, he would be legally compelled to grant his ex-wife a pension of £60 a year (ten-sixtieths of £360), whereas if his income were £840 during their last year together, the pension he would have to pay would be £140 (ten-sixtieths of £840).

Failure to pay such a pension would give rise to ordinary civil litigation, and the court should be empowered to order deduction of such a pension at source in the case of men in receipt of a salary or of a private income from investments. In cases, such as private businesses, where this is not possible, refusal to pay should, where the man's income has not decreased since his divorce, be punishable by a stiff term of imprisonment. In cases where the husband's income has actually diminished, however, it should be legitimate for him to apply to a local court for an order sanctioning the application of the pension basis to his present income. This would mean that if a man, previously earning £600 a year, was paying his wife a pension of £100 a year in respect of ten years of married life, had his income diminished to £300, the court would permit him to reduce the pension to £50 as long as his income remained at the lower figure. Should his income subsequently increase, however, he would be required to increase his contribution (up to the original amount) to his ex-wife proportionately, and should he fail to do this of his own free will his wife should have the right to apply to the court for an order to this effect.

No claims for arrears in cases of actually diminished incomes, however, should be legally enforceable—the wife, had the couple not divorced, would have been compelled to share her husband's diminished fortunes, and there is no justifiable reason why she should expect more as an ex-wife than she would have received had she been a wife *de facto*. Similarly, if a husband should be thrown out of employment or otherwise be deprived of his income, it should not be possible for a vindictive wife to have him imprisoned for default of payment as in the case cited

by Mr. Gates and quoted in our preceding chapter. On the other hand, however, no relief should be granted to the ex-husband as long as he possesses available capital in the form of savings, investments or property.

We must now consider the case of divorced wives who have been married for periods of less than ten years and endeavour to assess what compensation, if any, should be given them in addition to the support of from one to two years subsequent to the discontinuance of connubial life. Here again we may be guided by existing precedents. On some occasions the Civil Service, and also the Army and the Navy, grant special gratuities, based upon the actual length of service, to officers who are compulsorily retired before the pensionable period. This might also be applied to a divorced wife, and we would suggest that she should receive a gratuity or bonus of one-tenth of her husband's income (*i.e.* the income received by him during the last year they live together) in respect of every year of *connubial life* up to five years, and one-fifth for every year above five and under ten. The advantages of such a sliding scale will be obvious, for the longer a woman has been married the greater will be her handicap in remarrying or in obtaining employment, and her gratuity should progressively increase up to the pensionable period.

Such a gratuity might best be payable in weekly, monthly, or quarterly instalments—in accordance with the receipt of the husband's personal salary or income. Such instalments should be equal in amount to the husband's compulsory contribution to his wife's support during the interim year pending the granting of his divorce; and should not exceed one-third of his remaining salary or income after deducting any contributions payable to his children. In the event of the wife marrying again, however, the husband, if the divorce was sought by the wife, should be absolved from further payments as from the date of the new marriage. Similarly, if the ex-wife entered into a free union, the man should also be absolved from further payments in respect of a gratuity or pension, and should be able to apply to

the local court for an order to this effect. The object of this limitation is to preclude the possibility of a wife financially penalizing a husband when her sole reason for leaving him is her desire to marry or live with someone else. On the other hand, should the divorce have been sought by the husband, his financial obligations should continue even if the wife does remarry, since her retirement from conjugal life is compulsory and not voluntary.

In order to illustrate the working of these financial suggestions, which are necessarily tentative, we will outline a few imaginary examples. Mr. Brown has been married for eighteen months, his income is £240 a year, and there are no children. Mr. Brown decides to retire from conjugal life with a view to divorce, and is thereupon compelled to pay to his wife the sum of £80 during the year pending the granting of the decree (one-third of £240), and a further gratuity of £36 (one-tenth of £240 × $1\frac{1}{2}$) in equal and regular instalments during the year after divorce—unless he wishes to compound the gratuity in a single payment. Mr. Jones has been married for three years, has one child, aged six months, and an income of £350 per annum. Upon seeking divorce, he must contribute £50 a year towards his child's support until it is 14 years of age (one-seventh of £350), must pay Mrs. Jones £100 per annum (£350 − £50 ÷ 3) for 18 months (*i.e.* until the child is 2 years old), and must further pay her a gratuity of £105 (one-tenth of £350 × 3) in respect of three years of married life: payment being made by regular instalments and at the same rate as those made during the period of interim support. Should Mrs. Jones have sought the divorce, however, and should she remarry six months after the granting of the decree, Mr. Jones would be absolved of the payment of the gratuity—the wife not having been compulsorily retired and being, by virtue of her second marriage, relieved of financial necessity. As a third case, we will take the Smiths. Mr. Smith has been married seven years, has two children both over two years of age, and a salary or income of £525 per annum. Upon Mr. Smith seeking a

divorce, he must contribute £127 10s. a year towards the support of his children until they attain the age of 15—that is £75 per annum in respect of the elder child (one-seventh of £525), and £52 10s. per annum in respect of the younger (one-tenth of £525). He must further pay his wife £132 10s. in regular instalments during the year pending the issue of the decree (£525 − £127 10s. ÷ 3), and thereafter a gratuity, by similar instalments—unless he chooses to compound—of £427 10s., viz.: £262 10s. (one-tenth of £525 × 5) in respect of the first five years of married life, and £210 (one-fifth of £525 × 2) in respect of the two years over and above five. As a final example, we will take the case of Mr. Robinson, who has been married ten years, has three children, all over two years of age, and an income of £1,400 a year. On seeking a divorce, Mr. Robinson must contribute £480 per annum towards the support of his three children until they attain the age of 19—that is to say, £200 (one-seventh of £1,400) in respect of the eldest and £140 each (one-tenth of £1,400 × 2) in respect of the two remaining children; must pay his wife £306 6s. 8d. (£1,400 − £480 ÷ 3) during the intervening year pending the granting of the decree, and must thereafter pay her a pension of £233 6s. 8d. per annum (ten-sixtieths of £1,400) in respect of 10 years of married life. If, however, the divorce has been sought by Mrs. Robinson, and she possesses a private income of £700 a year, and does not take custody of the children, she will be required to contribute £120 per annum towards their support. Had her income been equal to her husband's she would have to pay one-half of the total contribution towards the children's support, but as her income is only half of that amount, her contribution being proportional, will naturally be one-quarter of his.

Reviewing these imaginary cases, it will be seen that the financial forfeiture in respect of a divorced wife is comparatively light at the end of one or two years, comparatively heavy at the end of seven years, and that above ten years it represents a considerable decrease in the husband's annual income. Furthermore, this last financial handicap will last for life should the

husband have sought the divorce and the ex-wife outlive him, while it will similarly last for life should his wife have sought the divorce (presumably owing to his conduct) and not have remarried or entered into any free union. In actual practice, however, a husband or wife will usually discover any incompatibility during the first two or three years of married life; the family, if any, will then be small, and the husband's financial obligations will not impose a very severe handicap. Divorce, moreover, may be resorted to by either of the parties at their discretion, and will no longer be dependent upon one of the partners committing a legal misdemeanour and having to be convicted of it in an open court. In our view, however, adultery should not be penalized more than any other failures or misdemeanours. A wife may be uncharitable, nagging, evil-tempered, vindictive, frigid, and generally impossible to live with, yet the husband upon divorcing her must pay her an obligatory pension or gratuity, and in these circumstances we are unable to recognize an act of adultery on the part of an otherwise satisfactory wife as constituting a greater justification for financial penalties than the other vices which we have enumerated.

Under the reforms which we have advocated, then, justice would always be secured for the children, both parents would have access to their family (unless either proved to be unfit), justice would be obtainable by the wife, and the freedom of divorce would be secured. The husband, moreover, would also be protected, for should the wife divorce him from sheer caprice, she would receive no financial benefits beyond a single year's support, if she remarried or entered into a free union—which must obviously be treated as a marriage so as not to discourage matrimony by financially penalizing it. On the other hand, every marriage would be ensured a fair trial—no final decree being obtainable until the expiration of two years from the date of the marriage—and the dignity of marriage would be safeguarded by the fact that no individual would be entitled to contract more than three legal marriages.

Finally, we are convinced that the paradoxical effect of loosening our marriage bonds would be to strengthen them. One of the greatest evils of our present system is that it deliberately encourages an attitude of *laissez faire* in married couples. At present, the average man and woman are inclined to assume complete possession of each other the moment they are safely married, and instead of realizing that it is easier to win love and friendship than it is to hold it, promptly relax all efforts to please, cease to compromise, and generally assume that no further effort of any sort is required. Thus Dr. Beale makes the average wife reflect: "You've got this man now, so why bother any more? You are married . . . and he can't escape you. There was some sense in studying your appearance and dress before . . . you couldn't be sure of him then. . . . For conversation, you have an unfailing theme: regale him with a full account of all your domestic worries . . . the rudeness of the butcher, Ellen's extravagance in the kitchen, the difficulty in getting cauliflowers. (He *eats* cauliflowers, so why shouldn't he hear about them?) You used to read a book with him occasionally when he was courting you—at times you even read something together; but now, instead of cultivating your mind, which is a fag, you need read nothing except the picture papers." [1] The attitude of the average husband is usually very much the same, and this insane mutual attitude is literally fostered and encouraged by the general assumption that a marriage, no matter how intolerable, is necessarily permanent unless adultery should be committed or discovered. Under reformed conditions this attitude would inevitably tend to disappear; couples would be "kept up to scratch," and in consequence, far fewer marriages would be likely to suffer shipwreck. Mr. Shaw, who believes that reform will come with Socialism, consequently writes: "Husbands and wives, if they knew that their marriage could only last on condition of its being made reasonably happy for both of them, would have to behave far better to one another than they ever seem to dream of doing now. There would be

[1] Beale, G. C., *loc. cit.*, p. 95.

such a prodigious improvement in domestic manners all round that a fairly plausible case can be made out for expecting that far fewer marriages and families will be broken up under Socialism than at present." [1] To this, we would only add, why wait for Socialism? We can have reform to-morrow if we care to exert ourselves, and in any case it is practically certain that Youth will not tolerate indefinite delay.

One last consideration merits special attention, namely, the ecclesiastical aspect of reform. "It is on marriage that the secular State is likely to clash most sensationally with the Churches," writes Mr. Shaw, "because the Churches claim that marriage is a metaphysical business governed by an absolute right and wrong which has been revealed to them by God, and which the State must therefore enforce without regard to circumstances." [2] Apart from the Anglo-Catholic community in the Church of England, however, we doubt very much if there is any considerable body of enlightened opinion among the Anglican and Nonconformist communities prepared to endorse the Roman and mediæval dogma of sacramental marriage. Thus, one of the Articles of Religion of the Established Church of England definitely states that Matrimony, together with Confirmation, Penance, Orders, and Extreme Unction, "are not to be counted for Sacraments of the Gospel, being such as have grown partly from the corrupt following of the Apostles." [3] Modern Protestant theologians and ecclesiastics, in brief, recognize that the old conception of marriage as a metaphysical business—signed, sealed, and irrevocably settled in heaven—is no longer intellectually tenable, yet in spite of this they still adhere to their ancient belief in the practical indissolubility of marriage, and have merely changed their line of defence.

The modern ecclesiastical condemnation of divorce, however, merits even less respect than did the mediæval, as witness the following. "I feel that when a man and woman have pledged

[1] Shaw, G. B., *The Intelligent Woman's Guide to Socialism and Capitalism*, p. 408.

[2] *Ibid.* p. 409.

[3] *Book of Common Prayer*, Article xxv.

their vows of lifelong fidelity to each other 'in the sight of God and this congregation,'" writes Dean Inge, "they have made the most solemn covenant which they will sign in the whole course of their lives. To break this vow is, in my opinion, one of the most disgraceful acts of which a human being can be guilty, and those who have broken it have no right to expect to be received into the society of decent people. . . . We must recognize two kinds of marriage, the Christian and the secular. Those who are married in Church must be considered to have pledged themselves absolutely to lifelong fidelity to each other, and a violation of this vow, while unrepented of, must involve exclusion from a Christian Church. Christians ought not to be expected to meet socially those who have so offended." [1]

The Dean of St. Paul's is a man of undoubted ability, but we sometimes wonder if, in his zeal for literary mass-production, he ever pauses to weigh up the merits and demerits of his all too prolific and facile comments. Thus, in the same article in which the foregoing quotation occurs, he writes: "I am driven to the opinion that no Church can enforce a rule of absolute indissoluble marriage, and that some means of escape . . . must be allowed. . . . My suggestion is that there should be an ecclesiastical court with power to grant *dispensations* . . . to remarry during the lifetime of the other partner." [2] Incidentally, the Dean cites the case of a girl who, having been informed by her doctor that she could never become a mother, concealed this fact from her fiancé until after her marriage, and suggests that such a marriage would be divorceable by an ecclesiastical court. That the girl in question wrongly deceived her husband cannot be denied, but unless the venerable Dean is prepared to state that the sole object of matrimony is the procreation of legitimate children, it is utterly ridiculous for him to urge that a girl who has been guilty of such a deceit, but who is otherwise a loving and companionable wife, should be divorced, and to

[1] Inge, W. R., "Marriage and Divorce," in the *Evening Standard*, 13th Feb., 1919.

[2] *Ibid.*

maintain at the same time, as in effect he does, that another girl who has dissembled her true temperament and mentality, or who proves intolerable, nagging, deceitful, uncharitable, mercenary, or frigid should in no circumstances be divorced unless she commits adultery, or becomes addicted to drink, drugs, or something analogous. The Dean's proposed ecclesiastical court, in brief, would be even more intolerable than a secular court and would probably be far less competent. But this is not all.

The Dean's argument that our present marriage vows are so sacrosanct that they cannot be broken, no matter how disastrous a marriage may prove, without involving disgrace and loss of honour, involves an indictment of the Church rather than of the lay candidate for divorce. Who, it may be asked, insisted upon these insane and extravagant vows ? Who refuses ecclesiastical blessing to the devout and religiously minded laity without first exacting a preposterous oath ? The answer is the Church, and the venerable Dean and his fellow-thinkers. The Dean dares to condemn those individuals who have been driven to break vows which the Church has enforced under threat of a refusal of religious blessing, and we in turn condemn the Dean and his fellow-thinkers and emphatically tell them that they, as equally as the Scribes and Pharisees of old, " bind heavy burdens and grievous to be borne, and lay them on men's shoulders; but they themselves will not move them with one of their fingers." [1]

Let the Dean and his fellows turn to the Prayer Book and compare the oaths demanded in the Form of the Solemnization of Matrimony with those required in the Form and Manner of Ordering Priests. The ordinary layman entering upon what may prove to be one of the most hazardous adventures of life, knowing little or nothing of his partner save what she may have deigned to disclose, and knowing still less of the possibilities of his own or his partner's future mental and temperamental development, is required to return an unqualified " I will " to a demand for lifelong love, honour, and fidelity, and this in spite of the

[1] Matthew, ch. xxiii., v. 4.

fact that his partner's subsequent actions may render either love or honour an utter impossibility and fidelity an intolerable bondage. On the other hand, the candidate for orders as a priest, who has spent long years of preparation for his chosen vocation, has served a probationary period as a deacon, and whose success in his future career depends entirely upon himself, modifies his "I will" to the vows administered to him with such phrases as "by the help of God," "the Lord being my helper," "endeavour myself so to do," and so forth. There can be little doubt that the latter set of vows embodies the most Christian spirit, and that the Church's matrimonial vows need drastic revision.

This does not mean that the vow including the words "as long as ye both shall live" should be altered to conform with the printer's misprint which read, "for as long as ye both shall *like*." Indeed, when Dean Inge facetiously suggests that this is the only alternative to the existing vows, he discloses an extraordinary poverty of both imagination and common sense and compels the laity to attempt the solution of a problem which should rightly be solved by himself and his colleagues. The solution, moreover, is long overdue, and in the interest of both the laity and the Church we feel impelled to rush in where Deans, if not angels, fear to tread.

For ourselves, we consider that the Church should strive to uphold the sanctity and dignity of marriage, and that it can best do this by emphasizing the highest, most religious, and idealistic reasons for matrimony rather than the lowest, as it has done heretofore. To maintain that matrimony is primarily a procreative device, and that it "was ordained as a remedy against sin, and to avoid fornication," is to load matrimony with the utmost degradation and to strip it of every vestige of dignity and sanctity. Furthermore, it constitutes a flagrant repudiation of empirical facts. Marriage, among the higher animals, is a far more dignified affair than is this gross ecclesiastical conception of human marriage, since even among the brutes the prolonged association of the sexes, which constitutes natural marriage, is

determined by social rather than mere procreative needs. We would suggest, then, that the first reform should be of the preamble to the existing marriage ceremony, and that the pronouncement, "It was ordained for the mutual society, help, and comfort, that the one ought to have for the other," should be redeemed from its present undignified position, and that the two other reasons for matrimony, which in the present Prayer Book take priority, might beneficially be omitted.

In the second place we would suggest that the questions and answers set forth in the existing Marriage Service should be amended to read as follows: "N., wilt thou have this Woman to thy wedded wife, *and endeavour* to live together after God's ordinance in the holy estate of Matrimony? Wilt thou *endeavour to* love her, comfort her, honour her, and keep her in sickness and in health; and forsaking all others, *strive by the aid of Almighty God to* keep thee only unto her, so long as ye both shall live?" To which the answer might be, "I will *endeavour so to do, God being my helper.*" The italics represent the suggested departure from the existing text, and we venture to believe that if the remainder of the questions and answers were amended in a like manner, the reformed vows would embody a far truer Christian spirit, and would obviate the necessity of men and women being compelled to swear solemn vows that future circumstances over which they may have no possible control may compel them to break. At present the Church, by enforcing impossible vows, compels men and women to commit offences, and we are strongly tempted to say, "Woe unto him by whom these offences come."

Dean Inge and his fellow-thinkers, of course, may maintain that if a person desires to remain in the Church he or she must definitely repudiate divorce and make the best of an intolerable union in the event of marriage proving a failure or, alternately, be content with a separation—a divorce that is no divorce, and a marriage that is no marriage. Their ultimatum would seem to be, "Domestic or religious isolation, choose for yourselves? You cannot have it both ways." By what right or authority

they bind so cruel a burden they are incapable of explaining, but one thing at least is certain, namely, that in this matter they are neither Christian nor logical. Christian charity does not condemn individuals as unfit "to be received into the society of decent people," simply because they have reluctantly been compelled to break unreasonable vows which were made under duress. Such an attitude is that of a bigot or a puritanical snob. This is plain speaking, but if the Dean lashes those with whom he disagrees with whips, he cannot reasonably complain if he in turn is chastised with scorpions.

His logic, moreover, is even inferior to his charity. If he maintained that matrimony was absolutely and unalterably indissoluble *in any circumstances*, he might at least be thought to be consistent. To maintain, however, that marriage is dissoluble in cases of adultery, sterility, or crime, but indissoluble in the face of bitterness, incompatibility, deceit, uncharitableness, envy, malice, hatred, and almost every other known vice, is to confess himself incapable of rational thought and obsessed by preconceived prejudices. Despite the unquestioned brilliance of many of his works, we have noticed that consistency is scarcely one of the Dean's strong points—Dr. Rashdall, we recollect, has also commented upon this. Thus, we have a very distinct recollection of the Dean maintaining, and quite rightly, at a recent Modernist Conference, that a Christian was essentially a law to himself. "Protestantism," he declared, "is a revolt against a Church stifled by formalism and unethical legalism. *It proclaims the freedom of the individual conscience. . .* The chief seat of authority in religion *will be no longer the Church*, nor the Bible, but the testimony of the Holy Spirit, *the inner light*, interpreting the teaching of the New Testament." [1] This is excellent, but how does the Dean reconcile this assertion of the supremacy of the individual Christian's conscience with his more recent assumption of the inadequacy of that conscience in the matter of matrimony? If the "inner light"

[1] Inge, W. R., *Presidential Address to the Conference of Modern Churchmen*; (cf. *Assessments and Anticipations*).

is the Christian's ultimate court of appeal, why superimpose an ecclesiastical court ?

The Dean rightly seeks to maintain the sanctity and dignity of marriage, but we would submit that he is setting about it in an entirely misguided manner. The Church, while sanctioning free divorce at the dictates of the individual's own conscience, should still teach that Christian matrimony is an ideal lifelong union, and that a falling short of this ideal constitutes a failure. She should teach that matrimony is not an estate lightly to be entered into or repudiated, and that success calls for wisdom and toleration. But she should also recognize that failure is possible and even probable, and should therefore refrain from judging. The Church is powerless to hinder reform much longer, but her intolerance in this matter is still capable of estranging from her fold many Christians whom she can ill afford to lose. Similarly, her uncompromising allegiance to a rigid, outworn and puritanical moral code in the matter of sexual relationships in general is doing her even greater harm than is her retention of mediæval dogmatism and obscurantism, and there is but little doubt that unless she is prepared to concede greater liberty and charity her following will soon be reduced to a mere handful of sentimentalists, bigots and zealous formalists. Such an eventuality, however, would not only be detrimental to the interests of the Church, but also to those of the individual citizen and the State as a whole.

XV

THE FAMILY, MARRIAGE, AND SEXUAL RELATIONSHIPS OF THE FUTURE

Prophecy is invariably hazardous, particularly when it is concerned with beings possessing a certain freedom of action, yet, since the present is necessarily the child of the past and the parent of the future, and since definite tendencies are discernible in the past evolution of man and the universe, it is legitimate to assume that these tendencies will still continue to manifest themselves, and that, in consequence, it must be possible to forecast, at least in broad outline, the trend of future development. No particular race, of course, is necessarily bound to evolve; it may, like certain species in the past, degenerate instead or even become extinct, but unless we are prepared to assume that the universe is a mere accident, devoid either of rhyme or reason, or that humanity is doomed to be destroyed or superseded, we are compelled to believe that at least some sections of humanity will continue to evolve, and that such evolution will continue in much the same direction as hitherto.

In any case, the ordinary man orders his life upon this assumption. He is guided by his own experience of the past, he assumes a reasonable stability in his world, he notes current tendencies, and plans his future movements accordingly. In much the same way, the great statesman is the man who legislates with an eye to the future; who is capable of assessing tendencies and anticipating their development, while in commerce we should write a man down as mentally deficient who invested his money in, or started a factory for, the manufacture of rushlights in an age when electricity was cheap and universally

obtainable. We propose to assume, therefore, that the broad tendencies traceable in the past and discernible at the present in the development of the family, marriage, and sexual relationships will continue in the future, and that those complexities which have been the concomitants of the development of civilization will become magnified with the increasing complexity of future society. Incidentally, we shall endeavour to assess the morality of present sexual tendencies—the broadening moral code which is already striving to become articulate.

"A quarter of a million years ago," writes Mr. H. G. Wells, "the utmost man was a savage, a being scarcely articulate, sheltering in holes in the rocks, armed with a rough-hewn flint or a fire-pointed stick, naked. . . . Over most of the great wildernesses of the earth you would have sought him in vain; only in a few temperate and sub-tropical river valleys would you have found the squatting lairs of his little herds. . . . Yet he changed. . . . The history of man is not simply the conquest of external power, it is first the conquest of those distrusts and fiercenesses, that self-concentration and intensity of animalism, that tied his hands from taking his inheritance. . . . From the dawn of the age of polished stone . . . man's dealings were chiefly with himself and his fellow-man, and every little increment in Power he turned at once and always turns to the purposes of this confused elaborate struggle to socialize."[1] Our primitive, semi-solitary ancestors, in brief, were super-apes rather than human beings, and were suspicious, pugnacious, hostile to each other, and intensely individualistic. The gregarious instinct existed, but was limited chiefly to mate and family because it clashed with the instinct of self-preservation which was intensified by the perennial difficulty experienced in obtaining food. Immediately the crude struggle for existence became less intense, however, the gregarious instinct began to enlarge its scope. Families formed themselves into coherent communities; into clans, tribes, and nations; life became more secure, and man slowly—for suspicion, pugnacity, and hostility to his kind, which

[1] Wells, H. G., *The World Set Free*, pp. 2, 3, 7.

had been unduly developed when the struggle for existence was fiercest, still continued to be manifest—became less individualistic and more social and human; in a word, a personality.

"Personality," writes Dr. William Brown, "ought to be distinguished from individuality. . . . The man of personality gives out to the world around him and also absorbs it in himself, identifying himself as far as possible with others. . . . The great statesman, the great man of action, the great scientist, is the person who is able to suppress his mere individuality in order that he may gain a wider personality of the group or nation to which he belongs." [1] If there is a purpose in existence it would appear to be the evolution of free personalities, and when we consider the great and long travail to this end, the theistic hypothesis—that personality must possess an absolute or lasting value—becomes increasingly rational. Our present concern, however, is with the fact that that which distinguishes man from the lower animals is his possession of personality, and that this personality is entirely due to the fact that he is a social being. Man is slowly realizing this. "To incorporate and comprehend his fellow-men into a community of purpose," writes Mr. Wells, has become "the last and greatest of his instincts." [2] But the final battle is not yet won. Man is still competitive in self-interest rather than in social service—this is only to be expected considering the comparative shortness of his social experience—but he is already beginning to realize that "to be moral is to be social," and when he is completely social then, for the first time, will he enter into his full inheritance.

The gradual subjugation of man's primitive egotism, pugnacity, and fierce individualism is nowhere more apparent than in the history of the evolution of the family—in his relationship to his offspring. At one time, as we have seen, the father possessed and exercised absolute power and authority over his children; they were as wholly his and at his mercy as were his domestic animals; he could offer them as hostages to his enemy,

[1] Brown, W., *Mind and Personality*, pp. 289, 290.
[2] Wells, H. G., *The World Set Free*, p. 74.

sell them in order to relieve his necessity, compel them to support him, pledge them for debt, and even punish them with death. Gradually, however, as man became compelled, or was induced, to modify his personal actions in deference to the major requirements of the community in which he lived, so also he was required to surrender much of his original power over his offspring, and the theory and practice of *parens patriae* became more developed.

The idea of the State as a super-parent is now firmly established, and the community is daily assuming greater and greater control over the lives of its future citizens, and increasingly diminishing the powers and functions of the parents. In certain instances the State can deprive parents of their children; parents who are guilty of cruelty to their offspring are rigorously punished; the modern State insists upon children being educated, irrespective of parental wishes; it provides State education from public funds, it insists upon medical inspection and, where necessity arises, provides free medical treatment; in many instances it even partially feeds and clothes the children attending State schools in distressed areas. Nor is this all. It now proposes endowing, or financially assisting maternity; medical officers and district nurses are often provided either by the State or individual communities; welfare centres, for the dissemination of a better knowledge of infant care, have been established; crèches exist where infants can be left and properly looked after while a poor mother is engaged at work, and nursery schools have been established for children above the age of two. Fatherhood, in brief, is being relieved of an increasing amount of financial liability, and motherhood of the greater part of maternal duties; indeed, in some cases the poor mother now does little more than bring her offspring into the world, while many wealthy mothers have done little more for some time past, since trained nurses, nursery governesses, tutors, boarding-schools, and universities have gradually had delegated to them practically all the duties of parenthood saving reproduction. This means that parents are tending to become increasingly less

concerned with their family and more with each other—that marriage is becoming more and more a human society. The greater freedom from parental responsibility enjoyed by parents, moreover, must inevitably modify the marital relationships of the future, and these will undoubtedly be characterized by less constraint and greater personal liberty.

This increasing encroachment of the State upon the family, however, has raised a storm of objection in many quarters. Certain sections of the Church, for example, have vigorously opposed it, and ecclesiastics, like Dr. Henson (Bishop of Durham), have repeatedly pronounced that marriage—presumably indissoluble and sacerdotal marriage—and the family are sacred Christian institutions, and that anything which loosens the marriage bond or tends to break up the home partakes of the nature of an axe laid at the very root of the Christian tree. Other sections of the community have also protested against the increasing application of the theory of *parens patriae*, and have maintained that the family—as a private institution—constitutes the very foundation of society and civilization. Indeed, in many conservative quarters the catchphrase " the sanctity of the home must be preserved at all costs " has been used as a slogan to rally all the forces of the opponents of progress.

It would be scarcely accurate to maintain that all these reactionaries have an axe to grind, but it is fairly safe to say that the vast majority are either consciously or subconsciously seeking to secure an actual or imagined advantage, to further some particular cause which they imagine may be endangered by State supervision of children, or are seeking to retain ancient privileges which they suppose to be threatened. A certain type of ecclesiastic, for example, seems to imagine that anything in the way of freer divorce or a surrender of parental authority must necessarily be subversive to Christianity—a curious misconception of the real function of religion or the true nature of Christianity; the more callous section of the commercial world is perhaps not guiltless of thinking that the State super-

vision of children may affect the future labour market—they rightly believe that the present régime of the private family is productive of an unfailing supply of cheap labour, and the fact that a vast percentage of these future labourers are physically botched and mentally undeveloped is by no means a disadvantage; certain privileged classes deliberately oppose State education—and particularly higher education—and medical attention because they are convinced that the raising of the so-called lower classes will eventually result in the restriction or abolition of many privileges at present enjoyed by their own class, while many average citizens of comparatively small means resent being heavily taxed in order to educate and partially support the frequently overlarge families of the impecunious when they themselves are obliged to limit their families and educate them at their own expense, and sometimes cannot even afford families at all.

We do not suppose for a moment that many persons are callous enough to argue on the crude lines suggested above—human beings are rarely deliberately or consciously callous. On the contrary, we imagine that most of the opponents of State control have rationalized their prejudices and can advance superficially sound arguments in their defence, but it is undeniable that the self-interests which we have outlined are served by their opposition, and this alone explains the popular enthusiasm aroused in the average theatre audience by some of the outspoken, though exaggerated, speeches in Mr. Miles Malleson's play relative to this subject.[1] On the other hand, however, innumerable disinterested people honestly believe in the sanctity of the private family, and are convinced that its abolition, or even a restriction of its influence, would be detrimental to society and morality.

An ideal family and an ideal home are unquestionably very beautiful and wonderful things, but the unfortunate fact remains that ideal homes are as rare as ideal people—that is to say, possibly even rarer than white elephants. Any observant person

[1] Malleson, Miles, *The Fanatics*.

possessing a wide circle of friends and having *entrée* into a large number of homes must have noticed how comparatively little time the average parent has to devote to his or her children, how limited is parental knowledge of child psychology and hygiene, how varied and dissimilar in character and mentality are the members of the same family, and how often the average parent is inclined to regard his or her offspring as personal property rather than as free individuals possessing minds and temperaments of their own. And if this is true of the homes of parents possessing a fairly good education and a moderately comfortable income, it is even truer of the homes of those possessing fewer advantages—that is, the vast majority of the population. The author's past professional duties and his personal investigations have taken him into a very large number of homes of all sections of the community, and he has no hesitation in maintaining that the overwhelming majority of children who do grow up fairly healthy and intelligent do so *in spite of*, and not because of, their home life, and that countless numbers of other children who might have been healthy, intelligent, and moral, have had health, intelligence, and morality destroyed by parental ignorance.

Let us look facts squarely in the face. In 1924, our State schools contained 1273 imbeciles, 180 idiots, 4448 epileptics, 900 feeble-minded, and 170,167 defective children, while 138,064 children were provided with spectacles during the year. In London alone, 35,827 defective children had to be accommodated in special homes and schools; 323 were totally blind, 946 partially blind, 719 were deaf, 144 partially deaf, 890 were epileptics, 7367 were mentally defective, 3577 were tubercular, 7750 crippled, and 14,111 in poor health. During that year there were some 675,078 children on the school registers, and among the so-called *undefective* children, 192,885 received medical treatment; 32,747 had eye troubles, 99,045 bad teeth, 12,980 suffered from ear, nose, or throat troubles, and 12,980 were treated for other ailments. In the whole of England and Wales in 1922, 42 per cent. of elementary school children were

found to be suffering from either mental or physical defects, and by 1924 the percentage had risen to 48·6.[1]

As there are vastly more children in State schools than in private institutions, these figures prove that *more than one-half of the total children of England and Wales are mentally or physically defective.* Many of these defective children owe their mental or physical defects to the marriage of unhealthy parents —a thing which would be discouraged, if not rendered impossible, in a eugenic State—but it is also unquestionable that many defects might have been rectified by infantile treatment, and that the vast majority of them would never have existed, much less have been permitted to become chronic, had the children received adequate hygienic and medical attention from infancy up. The outstanding fact, however, is that this large percentage of children actually did receive belated treatment, which in the vast majority of cases they would never have received but for State intervention, and we recommend this fact to the serious consideration of those well-meaning persons who pose as the champions of the "sanctity of the home," and who resent the State supervision of children.

Quite recently, Miss Margery Lawrence, who, we understand, has had considerable experience in slum work, wrote an article which called forth a storm of public, and even editorial, abuse. "The slum mother," she wrote, "though she may love her baby dearly, still feeds the poor little soul on pickled onions and sips of gin—love does not teach her that pickles and gin are not good for it—motherhood has not taught her anything but blind affection, and unfortunately, blind affection will not take the place of scientific knowledge of health and hygiene."[2] Needless to say the supporters of the sanctity of the home and a large number of ignorant mothers were outraged by this indictment—the mothers being probably the most indignant. The

[1] These figures are obtained from *The Annual Report of the Chief Medical Officer of the Board of Education*, and the London County Council's Report of the School Medical Officer.

[2] Lawrence, Margery, in the *Daily Express*, 3rd April, 1929.

crudely ignorant are often practically unteachable, and most medical practitioners have come across the type of mother who considers that maternity—which in the vast majority of cases is accidental and involuntary—automatically imbues her with the wisdom of the ages. The well-known case of the illiterate mother indignantly informing a friend that a young doctor had dared to offer advice on maternity to her "wot 'ad buried five of 'er own" has countless parallels in everyday life. Miss Lawrence's "gin and pickles" example may be somewhat exceptional—though we ourselves have seen children of under two given sips of beer and stout—but the official figures which we have quoted relative to mentally and physically defective children prove conclusively that combined ignorance and poverty produce results which are as equally disastrous as those resultant from a diet of pickles and gin.

We do not suppose that Miss Lawrence, any more than ourselves, despises motherhood. Motherhood, like life, can be a very beautiful thing, but like life, also, it can be a hopeless failure. It is the sickly sentimentality of the average Englishman, his seeming inability to look facts squarely in the face, or to think logically, which have earned him the reputation of being a hypocrite. As a matter of fact, we are a race of honest muddlers, and our unenviable reputation for hypocrisy is due primarily to our mental obtuseness, which is almost incredible to some of our logical and clear-headed neighbours. We are sentimental over motherhood, and our sentimentality rarely discriminates between good and bad motherhood. Woman, or rather a certain type of woman, has been quick to seize upon this fact, and in order to secure a greater hold over man and her offspring she has sought to represent maternity as a sort of voluntary self-martrydom.

Miss Lawrence's main offence seems to be that she has bluntly refused to be awed by the performance of the simple biological function of maternity. Why she should have been singled out above all other persons is rather astonishing, since scores of other writers have been even more emphatic. Thus, Mr. St. John Ervine, if our memory serves us, recently declared

in one of his weekly articles in *The Observer*, that female rabbits reproduced their kind even more efficiently and regularly than did human mothers, and that they made far less fuss about it. Mr. James Douglas, in his adjectivally strong but logically weak reply to Miss Lawrence's article, seems to regard a statement of this sort as constituting *lèse maternité*. In his view, the mere fact that every human being owes his or her existence to a mother constitutes a justification for the most exaggerated worship of motherhood. As well might he ask us to revere a wheat field or a cabbage patch, a cow or a sheep, since we owe our survival to these plants and animals as equally as we owe our existence to our mothers.

This indiscriminating adulation of motherhood is pernicious because it encourages parasitism, selfish possessiveness, and stark ignorance. There are innumerable noble and unselfish mothers in the world, and their children owe practically everything to them, but these women are not noble and unselfish because they have performed a simple biological function, but because they were noble and unselfish long before they ever became mothers. "Merely having a baby," as Miss Lawrence rightly points out, "does not make a stupid woman less stupid, or a nasty woman nice," [1] whereas the absurd but popular assumption that the stimulation of the maternal instinct automatically imbues a woman with all the wisdom and virtues of the ages is unquestionably responsible for an incalculable amount of misery and suffering among children. Bringing a child into the world is one thing, but rearing, training, ensuring its health, and its mental and moral development, are entirely different matters.

If private homes have been responsible for a gigantic crop of physical defects, they have been responsible for an even greater harvest of warped personalities, suppressed abilities, and unnecessary antagonisms. Not one parent in a hundred is capable of bringing up children intelligently and unselfishly. Because they have brought them into the world and have supported them, parents seem to imagine that their children belong to them body,

[1] Lawrence, Margery, *loc. cit.*, 3rd April, 1929.

mind, and spirit, consequently they prate at length about children's duties towards parents and highly resent being reminded about parents' duties towards their children, other than in the matter of support and ordinary humanity. They assume that the mere possession of children teaches them all there is to know about child psychology. "Were they suddenly called upon to rear and breed pigs," writes Mr. Lewis, "their first thought would be for expert guidance," [1] but children are an entirely different matter. It is not to be supposed, however, that the average parent imagines the rearing of pigs to be a simpler matter than the rearing of children. They know quite well it is not. As they are not pigs themselves they are prepared to admit their ignorance of pigs, but as their children are human beings like themselves and moreover a part of themselves, they assume that they automatically know all there is to know about their own offspring.

If we could eliminate the conventional sentiment which demands the maintenance of at least an appearance of affection and friendship between brothers and sisters, it is highly doubtful if one adult man or woman in a hundred would select either of his or her brothers or sisters as a close friend or partner—so mentally and temperamentally different are the children of the average family. The fact that no two children are really alike seems to be a source of perpetual mystery to the average parent—and this despite the fact that but for the variability of offspring evolution would have been an impossibility. One can hardly enter a home without sooner or later hearing one of the parents complain, "I can't think where Willie or Winnie gets his or her temperament from, I'm sure they don't get it from either their mother or me." The result is that every deviation among children from the mental or temperamental parental norm is treated as an abnormality—as something ruthlessly to be suppressed—and the amount of suffering and wastage of capabilities that result from this idiotic attitude is incalculable.

"Even among people of good stock," writes Judge Lindsey,

[1] Lewis, R. T., *Romulus, or the Future of the Child.*

"homes in which children can find the right spiritual and intellectual atmosphere are the exception rather than the rule." [1] This truth applies to England as well as to America. Parents, except in very rare instances, are simply incapable of training children, or of recognizing that what is sauce for the goose or gander is by no means always sauce for the goslings, and they frequently undermine even natural affection and gratitude by their well-meaning but mistaken repressions. And the most conscientious parents are generally the worst offenders, as is proved by the fact that worthy persons frequently express surprise at the apparent affection and intimacy existing between children and those parents who seem to have taken little or no care in training their offspring, but have been content to delegate this task to others. The truth of the matter is that children find it easier to forgive parental laxity—where it has not led to actual disregard—than an excess of parental zeal that leads to repressions and fierce antagonisms. Thus, the late Bishop Butler, when he heard that the Bishop of Carlisle was waxing eloquent about the joy of family reunions in the next world, wrote: "Speaking for myself, I have no wish to see my father again, and I think it likely that the Bishop of Carlisle would be no more eager to see his than I mine." If the average modern man and woman possessed the intellectual honesty of Bishop Butler, thousands would echo the same sentiment. The majority of homes, in brief, are abodes of repression rather than of expression.

It may be argued that the improvement of the home, instead of its practical abolition, is the best remedy for this evil. The answer would appear to be that its total abolition is not probable, but merely its modification, and a recognition of the fact that parents have hitherto attempted the impossible. What mother of the labouring or lower middle classes, harassed with cleaning, cooking, mending, and general housework, can give of her best to her children, even if she knew how? In the vast majority of cases they are perpetually in the way of her work, and a

[1] Lindsey, B., *The Revolt of Modern Youth*, p. 95.

constant source of anxiety and annoyance. Prior to school age they have no day-nursery or playground save the living-rooms or streets or a meagre backyard. The streets are dangerous, and the yard, if there is one, is impossible in wet weather—that is, for the greater part of the year in England. The only alternative is the house, which means that the children are continuously in the mother's way, interfere with her work, and litter the place as fast as she attempts to tidy it. Few mothers are good disciplinarians—the maternal relationship is perhaps partially responsible for this—and, in circumstances such as we have outlined, they invariably bombard their children with salvoes of "don'ts" and threats, reduce both themselves and their children to a state of chronic irritability, finally lose their tempers and resort to drastic and unfair punishments, and then, overcome with sudden remorse, rush to the opposite extreme of over-petting and indulgence.

Inevitably both child and mother suffer. The child, a far more rational being than is generally supposed, is at a loss to know what to make of a being at one moment compounded of tenderness and affection and the next of shrewishness and hostility; while the mother is so thoroughly tired and harassed by the end of the day that, instead of being able to enjoy a quiet hour in amusing or instructing her children, she is only too glad to pack them off to bed out of her way. The working husband, moreover, is in no better case than his wife. By the time he returns home at night he is too tired to wish to be bothered with children, while the fact that his wife is also tired and irritable by no means adds to connubial bliss, and frequently results in the man getting "fed up" and clearing off to the nearest "local" for a little congenial society. Ultimately, children come to regard their parents as capricious beings who should be approached only with the utmost circumspection. Judiciously handled, they may—upon occasions—prove sources of rewards and favours, but such results are only obtainable when the moods of the "household gods" are auspicious, or when they have been propitiated with oblations of service, implicit obedience, or

demonstrations—either real or simulated—of affection. A premium is thus placed upon deceits and concealments, simulated affection and an outward show of obedience; in a word, "cupboard love," with the inevitable result that the average child's playmates know far more about its true character and disposition than does either of its parents.

The case is not much better where the parents possess greater wealth, more leisure, and better education. The real training of the children is here undertaken by professional nurses, governesses, and tutors, and although parents and children may enjoy a certain amount of leisure together, the former are rarely the true confidants of the latter. The rarity of this undoubtedly inspired much of Butler's writing in *Erewhon*. "It was rarely that I saw cases of real hearty and intense affection between the old people and the young ones," he wrote. "Here and there I did so, and was quite sure that the children, even at the age of twenty, were fonder of their parents than they were of any one else; and that of their own inclination, being free to choose what company they would, they would often choose that of their father and mother. I saw two or three such cases . . . and I cannot express the pleasure which I derived from a sight suggestive of so much goodness and wisdom and forbearance, so richly rewarded; yet I firmly believe that the same thing would happen in nine families out of ten if the parents were merely to remember how they felt when they were young, and actually to behave towards their children as they would have had their own parents behave towards themselves. But this, which would appear to be so simple and obvious, seems also to be a thing which not one in a hundred thousand is able to put into practice." [1] In point of fact, the matter is not nearly so simple as Butler seemed to imagine. Few adults are really capable of self-analysis, and even fewer are capable of remembering their own juvenile reactions towards their parents.

But even if parents could remember their own childish reactions it might not help them much; indeed, the supposition

[1] Butler, S., *Erewhon*, pp. 202-3.

that their children must necessarily possess the same temperaments and characteristics as themselves is responsible for nine-tenths of the trouble. Butler credited his Erewhonians with the recognition of this fact, and reports that these imaginary people elaborated a fantastic mythology in an attempt to prove that parents were not responsible for bringing unwilling children into the world, but that the responsibility belonged entirely to the unborn who plagued and tormented the parents of both sexes until they consented to take them under their protection. But for this belief, declared Butler, "No man would have any right to get married at all, inasmuch as he can never tell what frightful misery his doing so may entail forcibly upon a being who cannot be unhappy as long as he does not exist." [1] According to this mythology, the unborn were fully warned of the dangers of birth before they left the *World of the Unborn.* They were urged to "consider the infinite risk; to be born of wicked parents and trained in vice! to be born of silly parents, and trained to unrealities! of parents who regard you as a sort of chattel or property, belonging more to them than to yourself! Again, you may draw utterly unsympathetic parents, who will never be able to understand you, and who will do their best to thwart you (as a hen when she has hatched a duckling), and then call you ungrateful because you do not love them; or, again, you may draw parents who look upon you as a thing to be cowed while it is still young, lest it should give them trouble hereafter by having feelings and wishes of its own." [2] The Erewhonians also saw the other side of the case, and the Unborn were warned of the perils of parenthood which they would have to face if they became born and grew up. "Imagine what it must be to have an unborn quartered upon you, who is of an entirely different temperament and disposition to your own; nay, half-a-dozen such. . . . It is hard upon the duckling to have been hatched by a hen, but is it not also hard upon the hen to have hatched the duckling?" [3]

[1] Butler, S., *Erewhon*, p. 183.

[2] *Ibid.* pp. 194-5.

[3] *Ibid.* pp. 195-6.

We moderns are, if anything, rather worse than the Erewhonians. They salved their conscience of the responsibility incurred by bringing children into the world with the fiction of "The World of the Unborn," whereas we salve ours with the fiction of "The ideality of the home." We have to realize the fact that children are not the personal property of their parents, that scarcely one parent in a thousand is really capable of efficiently rearing and training a child, and that the average child is happier and far better off in a nursery school or properly organized educational institution than it is in its own home. Many people will maintain that the remedy for this is the better training of parents. This, however, is scarcely practicable. We live in an age of specialization, and the average man and woman can no more expect to become expert nurses and teachers, in addition to their own professions, than they can hope to become expert doctors or lawyers, and at the same time earn an adequate living at something else. The training of a child, moreover, is not only a science but also an art, and artists are born rather than made. Parents possessing this necessary aptitude are the exception rather than the rule, while those who possess the aptitude very rarely possess the necessary expert knowledge of child psychology.

At present, a large number of professional teachers seem to lack this necessary aptitude also, but there are already signs that a natural aptitude as well as a highly specialized training will be deemed necessary in all the teachers of the future. There are also signs that in the not far distant future maternity will be endowed; state or municipal nurses and physicians will be available; the existing educational and welfare institutions will be augmented by additional crèches and nursery schools, and that the grants of food and clothing, already made in necessitous cases, will be extended. Nor is it probable that the theory and practice of *parens patriae* will cease at this point. The increasing socialization of society will not permit one section of the community to remain parasitical upon the others indefinitely. The benefits extended to the so-called lower sections will

gradually but inevitably be extended to the higher grades, and will increasingly be used by them. It is possible, therefore, to visualize a future in which the State will have assumed practically all the functions of parenthood, in which the children will not necessarily live at home, and in which the associations of the actual parents with their children will be limited to those periods of leisure when both parents and children are free from their normal occupation, and when they gladly seek each other of their own free will.

It is highly probable, moreover, that the relationship existing between these children and parents of the future will be far more amicable than those existing at the present. Such freedom from the greater part of parental responsibility, moreover, will inevitably be conducive to greater freedom in the relationship of the parents. Marriage, as already indicated, will become more exclusively a human society (a free association of the sexes governed by mutual compatibility), and as all citizens alike, whether male or female, married or single, divorced or otherwise, will compulsorily have to contribute towards the State support of children, divorce will necessarily be freer and will be unhandicapped by those restrictions and considerations which we outlined in the preceding chapter. Such a state of affairs is admittedly still far distant, but he would be a rash man indeed who would dogmatically state that such conditions will be impossible for thousands of years to come. For ourselves, we would not care to prophesy that it will come in the next hundred years, but we deem it quite as likely as otherwise.

It is scarcely probable, however, that the State of the future will be content merely to confine its attention to the care and supervision of the children when actually born, and to ignore the equally important matter of pre-natal care. The importance of eugenics is becoming increasingly recognized. At present we exercise care in breeding almost every other type of species except our own. Furthermore, by over-taxing the generally more healthy, and certainly more efficient, intellectual, and cultured section of the community, and artificially providing for

the wants of the improvident, unhealthy, and unintelligent sections, we are interfering with natural selection—in brief, we are aiding the breeding of inferior stock and rendering the breeding of better stock almost impossible. This cannot continue indefinitely without the nation suffering. "We cannot just let the population go on growing indefinitely without thinking about the problems for controlling and adjusting it," declared Professor J. S. Huxley at a recent interview. "The severity of selection has been reduced. There does seem to be a real danger of the quality of the population going down. I should imagine population problems will be a major political issue in less than a century. And here you cannot possibly think out what you want to do without a knowledge of the laws of heredity, natural selection, and so forth. And that is why it is so very important to get an informed public opinion." [1]

The enlightenment of public opinion, however, as Professor Huxley suggests, is unquestionably the first step, but matters cannot end here. We have already recommended that it should be compulsory for prospective candidates for marriage to furnish each other with a medical report, and this will preclude the possibility of unhealthy or diseased persons marrying each other in ignorance. The next step will undoubtedly be a State ban upon the marriage of diseased persons, and it is already announced that the Fascist Government of Italy is contemplating legislative measures ordering a compulsory medical control of marriage. Meanwhile, in order to pave the way to this reform, the Fascist League of Social Hygiene at Genoa has organized a Medical Consultation Bureau, and has arranged that candidates for marriage may be visited by competent physicians and certified free from infectious diseases. Incidentally, the Bureau will give medical advice *after marriage* as well as before. There can be little doubt, then, that a State supervision of maternity will be established in the very near future, and though it is highly improbable that any future State will treat disease as a crime, as did Butler's Erewhonians, it is nevertheless fairly certain that

[1] Huxley, J. S., in *The Observer*, 17th April, 1929.

the State will rigorously attempt to preclude the possibility of mentally or physically diseased persons having children.

There remains yet another aspect to be considered. It is undeniable that the rapidly increasing dissemination of a knowledge of birth-control is beginning to react upon the birth-rate. Limitation of the rate of procreation may become very necessary in the future—there are obvious limits to the number of persons the earth is capable of supporting, and the elimination of war, pestilence, and famine would remove the old checks on over-population—but the danger of over-population is very small at present, and unfortunately birth-control is being practised by the type of persons the State most needs. One of the chief reasons for this is that professional people, under modern economic conditions, often find it almost impossible to feed, clothe, and educate a family in accordance with the demands of their own standard of life. Again, it is undeniable that the large families of the Victorian era were often accidental rather than voluntary, while it is also possibly true that the modern woman is more devoted to pleasure and less inclined to be bothered with children than was her grandmother. In spite of the fact, however, that a young modern married woman is supposed to prefer driving a "baby" Austin to pushing a baby-carriage, we are convinced that neither economic difficulties nor a love of luxury is the main cause of increasing birth limitation. Nor de we believe that the danger attached to maternity—and every intelligent woman knows that a small but nevertheless material risk exists—is a primary deterrent, for an almost equal risk exists every time a woman crosses a busy city thoroughfare or makes a journey in a train or motor-car, but this does not deter her from taking these risks. It is reasonable to suppose, in short, that even after the State has relieved mothers of the major part of the burden of rearing and training children, when maternity is adequately endowed, and when medical science has rendered the risks almost negligible, that the birth-rate will remain far lower than it was a few generations ago, and that it may even fall below what an enlightened State would deem to be a desirable minimum.

How are we to account for this? The maternal instinct in woman is admittedly strong; her emotional life, and possibly even her health, is enhanced by rational motherhood; lactation is undeniably pleasurable to a normal woman; psychology has proved that pregnancy heightens a woman's æsthetic and emotional perception and receptivity, and yet, despite all this, few intelligent modern women desire to repeat the experience very frequently, while many even decline it altogether. This, we think, is primarily because woman has developed both spiritually and intellectually. As a domestic slave or a prisoner in a harem, with no occupation or interests other than ministering to the sexual and material wants of her lord and master and bearing children, she was scarcely even an individual. Now she can become a personality, and has no intention of permitting herself to be reconverted into a mere child-bearing automaton.

Mr. Ludovici considers this attitude to be fatal. Woman, he maintains, is highly specialized for reproduction, and can only realize her destiny and attain true happiness when fulfilling her natural functions.[1] Woman, however, is also specialized for sleeping and eating, but we should scarcely consider her worthy of her dignity as a human being were her sole, or even her major, activities and interests confined to these functions. Sleeping and eating are necessary, as also is maternity, but unless we are prepared to say that evolution is meaningless, and that there is neither purpose nor direction in life, or that the sole destiny of man is to remain a healthy and prolific animal—in which case he might just as profitably have remained a monkey or a protozoa—it is quite apparent that sleeping and eating and child-bearing, though necessary functions, are merely ancillary, and are entirely subordinate to the primary object of human existence—the development of a free personality.[2] The modern woman, in brief, though prepared to bear one or two children, is not

[1] Ludovici, A. M., *Woman: A Vindication*; *Man: An Indictment.*

[2] *Note.*—Freedom, of course, is never absolute, and man, like every other organism, must adjust himself to his environment, but, as Professor Nunn points out, "man consciously claims a share in the moulding of his own destiny," and may literally become a Freeman of the World.

prepared to sacrifice her spiritual and intellectual development, and there can be no doubt that the children of the future will be all the better for this. "The more freely the human mother mingles in the natural industries of a human creature," writes Mrs. Stetson, "as in the case of the savage woman, the peasant woman, the working woman everywhere who is not overworked, the more rightly she fulfils these (maternal) functions. The more absolutely the woman is segregated to sex-functions only, cut off from all economic use and made wholly dependent on the sex-relation as a means of a livelihood, the more pathological does her motherhood become. . . . She is too female for the perfect motherhood!" [1]

Modern women are beginning to realize this, and it is largely responsible for much of the existing birth-control. There remains, however, yet another deterrent to frequent maternity. Despite the many pleasurable aspects of motherhood, there are nevertheless certain aspects which are the very reverse to pleasurable. The duration of pregnancy in human beings is undeniably lengthy, and even if the woman possesses excellent health she suffers considerable physical handicaps during the last few weeks or months. Moreover, most women, and especially those who are æsthetically inclined, admit that they are acutely conscious of physical deformity during this latter period, and this is by no means pleasurable. These last few weeks, furthermore, are not infrequently responsible for the permanent impairment of a woman's beauty, at least as far as her figure is concerned, and these considerations, though not of paramount importance, are by no means as trivial as some good people are inclined to suppose. The most unpleasant, and even reprehensible, part of maternity, however, is parturition, or childbirth, and no honest woman exists who would not willingly forego this part of motherhood if it were possible. Mr. Ludovici, on the other hand, maintains that "healthy, honest women will confess that they thoroughly enjoy *every moment* of mother-

[1] Stetson, Mrs., *Women and Economics*, quoted by Dr. Marie Stopes in *Married Love*, p. 171.

hood," that "only the sick or badly-formed woman has any honest right to complain," [1] that Nature intended maternity "to be pleasant in *all* its stages: for all bodily functions, when healthy, are pleasant," and that "a female cat purrs even while the kittens are being born" [2]—the inference being that healthy women should also metaphorically purr even in the throes of childbirth.

With all due respect to Mr. Ludovici, this is the most unmitigated nonsense. Many women undoubtedly magnify their sufferings in childbirth and refuse to admit the fact that much of maternity is distinctly pleasurable because, as Mr. Ludovici points out, "In making him (man) believe that he gets all the joy and she all the suffering from the sexual life, she gives him a constant sense of guilt or at least of indebtedness, which makes him submissive," [3] and also because it has tended to elevate "the women who bear children into the position of pseudo-saints and priestesses, which, being women, they enormously enjoy and cling to." [4] But all this does not alter the fact that parturition is a very unpleasant, painful, and even dangerous business. Nor is the painful nature of the function due entirely to the deterioration of woman's physique, as Mr. Ludovici assumes, although physical weakness and malformation undoubtedly increase suffering and danger.

Healthy native women, living what Mr. Ludovici would call a perfectly natural life, also experience pain in parturition. The author, for example, recalls the case of a particularly healthy and well-developed Mashona woman, living in her native kraal, hundreds of miles from all contact with civilization, who happened to be one of the principal witnesses in a native stock theft case. In spite of the fact that she was in an advanced stage of pregnancy she insisted upon accompanying the other native witnesses to the nearest Native Commissioner's Court.

[1] Ludovici, A. M., *Woman: A Vindication*, p. 78.
[2] *Ibid.*, p. 342.
[3] *Ibid.*, p. 78.
[4] Lawrence, M., in the *Daily Express*, 3rd April, 1929.

The first day she marched nearly thirty miles, the second day she gave birth to her child—possibly prematurely—and the third day she marched a further twenty-eight miles carrying the newly-born baby. This feat, together with the fact that she gave birth to her child unaided in the bush, will probably convince Mr. Ludovici that she was a particularly strong and healthy daughter of Nature, but the author can assure him that even this Amazonian native did not metaphorically purr while she was giving birth. On the contrary, she screamed right heartily and lustily—her yells could be heard fully a quarter of a mile away, and when the author visited her some two hours later she was prostrate from exhaustion.

This case is by no means isolated. The author has had considerable experience of semi-savage races in innumerable parts of the world, and he can vouch for the fact that although the physical strength and recuperative powers of native women are very much greater than are those of their more civilized sisters, they nevertheless experience considerable pain in childbirth,[1] and sometimes even die. Mr. Ludovici, moreover, is entirely mistaken in supposing that natural reproduction is necessarily healthy, pleasurable, or devoid of danger, for biology proves that the very contrary is frequently true. Thus Weismann, Goette, Geddes, Thomson, and numerous other biologists have shown that many organisms invariably die within a few hours of the production of ova—the exhaustion proving fatal—and that even the males are sometimes involved. The males of many spiders, for example, normally die after impregnating the female. Reproduction is fatal to the common mayflies. "In some species of the annelid *Polygordius*," write Professors Geddes and Thomson, "the mature females break up and die in liberating

[1] *Note.*—Although a healthy native woman always experiences pain in childbirth, she certainly does not experience as much pain as does an equally healthy highly civilized woman. This, of course, is simply due to the fact that the nervous system of a native is not nearly so sensitive or highly developed as is that of a highly civilized woman. Greater sensitiveness to pain, in brief, is a concomitant of high mental development, and the old school adage, "Where there are no brains, there is no feeling," is substantially correct.

their ova. In the Heteronereis . . . the whole animal dies after the emission of the genital products . . . in some thread-worms or nematodes (*e.g.*, *Ascaris dactyluris*) the young live at the expense of the mother, until she is reduced to a mere husk. In the freshwater Polyzoa . . . the ciliated embryo leaves the maternal body-cavity through a *prolapsus uteri* of the sacrificed mother," [1] and innumerable similar instances could be quoted.

Many mammals, as well as human beings, die during gestation or parturition, not only from exhaustion or hæmorrhage occasioned by actual parturition, but also as a result of tubal and extra-uterine pregnancies. "It is not death that makes reproduction necessary," wrote Goette, "but reproduction has death as its inevitable consequence." [2] Life, in brief, is not nearly so simple as Mr. Ludovici would seem to imagine. It is full of antinomies, or apparent contradictions, which have puzzled philosophers from the days of Zeno down to the present. "The view of Goette, and other naturalists, that reproduction is the beginning of death," writes Geddes and Thomson, "is not inconsistent with the apparent paradox, that local death was the beginning of reproduction." [3] Local death, for example, is involved in such normal and healthy functions as menstruation and lactation. Menstruation involves the degeneration and disruption of the epithelium of the uterus, and, though "clearly a normal physiological process, it yet evidently lies on the borders of pathological change, as is evinced not only by the pain . . . and the local and constitutional disorders which so frequently arise in this connection, but by the general systemic disturbance and local histological changes of which the discharge is merely the outward expression and result." [4] Similarly, lactation involves the degeneration, disruption, and expulsion of the nuclei of the mammary glands (*i.e.* cellular disruption and death), and this, as Geddes and Thomson point out, explains the "peculiar liability of these uterine and mammary tissues to

[1] Geddes and Thomson, *The Evolution of Sex*, pp. 273, 274.
[2] Goette, A., quoted by Geddes and Thomson, *loc. cit.*, p. 272.
[3] Geddes and Thomson, *loc. cit.*, p. 275. [4] *Ibid.*, p. 259.

disease." [1] Sexual activity, therefore, is not only contributory to the renewal of life in the individual and the species, but also to death, and the apparent paradox will not surprise any competent biologist.

It will thus be seen that although some aspects of maternity are distinctly pleasurable, a woman runs an appreciable risk in childbirth, is subject to considerable pain and exhaustion even under the most favourable conditions, that the last few weeks of pregnancy are rarely pleasurable, and that this latter period may, thanks to the size and weight of the child, permanently impair her beauty. Maternity, in brief, when voluntary, does involve a certain amount of courage, self-sacrifice, and disability, especially in the case of a beautiful and highly cultured woman, and there are signs that many women are beginning to revolt against these more unpleasant aspects of motherhood, and to ask if they are really necessary. They recognize that humanity is no longer the pawn of Nature; that man is beginning to control her; to shape her to his own ends instead of meekly submitting to being shaped by her, and they feel that modern science ought to be able to do something in the matter of maternity. Except for the use of anæsthetics, which minimize the pain of actual childbirth, gestation and parturition still retain substantially the same disabilities as they did a couple of million years ago, but it now seems possible that animal pregnancy may be obviated or, at the least, considerably modified.

To the ordinary layman such an idea may seem fantastic, yet it is by no means beyond the bounds of human possibility. Mr. Bernard Shaw, who is a thoroughgoing Vitalist, is convinced that our present reproductive methods will one day become obsolete, and believes that this will be brought about by natural rather than artificial methods, and that human beings may develop new powers and functions by an act of volition, in much the same way as Butler assumed that animals evolved new limbs. As an illustration of this it may be mentioned that Butler declared that the father of all crabs " invented " his pincer-claws

[1] Geddes and Thomson, *loc. cit.*, p. 266.

in much the same way as a carpenter invented a pincer-tool, and that crabs now grow claws because they " remember " that their forefathers have always done so.[1] In many ways Mr. Shaw is undoubtedly a disciple of Butler, and Shaw's conception of a future generation being able to produce a child—equivalent in development at birth to a normal boy or girl of some fifteen years of age—from a gigantic egg,[2] is neither intended to be a theatrical sensation nor an example of Shavian perversity, but a dramatic presentation of his belief that the present crudities of gestation and parturition will one day become either obsolete or drastically modified.

It may legitimately be objected that Mr. Shaw possesses a greater knowledge of drama than of science, but this objection cannot possibly apply to Mr. J. B. S. Haldane, the brilliant research scientist and Reader in Biochemistry at Cambridge. Mr. Haldane envisages a time, not far distant, when it will be possible to produce *ectogenetic* children—that is to say, children artificially developed outside the womb.[3] As far as we can gather, he seems to assume that a limited number of men and women, possessing suitable mental and physical qualifications, will be selected from a band of volunteers who will constitute the reproductive specialists of the future. These persons will apparently submit to an operation involving the removal of one of the ovaries in the females and one of the testes in the males. From the organs thus obtained a supply of ova and spermatozoa will be secured. The oöcyte, or human ovum, will then be fertilized by a spermatozoon in a biochemical laboratory, and the oösperm, or fertilized ovum, will subsequently be grown in a suitable serum. When the embryo is fully mature, the ectogenetic child will be handed over to a foster-mother, in whom lactation will be artificially stimulated. Mr. Haldane further predicts that a fuller knowledge of the factors determining heredity may enable the scientists of the future to eliminate many of the physical and psychical traits which are responsible

[1] Butler, S., *Life and Habit.* [2] Shaw, G. B., *Back to Methuselah.*
[3] Haldane, J. B. S., *Dædalus.*

for a considerable amount of disease, crime, and other abnormalities.

That it may one day be possible to grow a human embryo in a serum in a laboratory, few scientists would be prepared to deny. Among the lower animals much has already been done, and the embryos of sea-urchins, starfish, marine worms, molluscs, and even frogs, have not only been artificially grown but artificially stimulated without being fertilized by sperm. Whether or not an ectogenetic child—admitting the possibility of Mr. Haldane's forecast—would grow into a perfectly normal child, however, is another matter. Judging by the evidence at our disposal, it would seem improbable. In the matter of lactation, for example, Dr. William Brown informs us that: "This fondling by the mother, this contact with the mother in deriving nourishment in the earliest months, seems to be the natural means of drawing out what Freud calls the libido in its sensory form towards another person; and if the child is denied that and is brought up on the bottle, it tends to seek sensory satisfaction in its own person, whence arises the danger of auto-eroticism—getting sensory satisfaction from its own body." [1]

Mr. Haldane apparently appreciates this, for he admits that breast-feeding is beneficial and suggests that lactation should be induced in a foster-mother by artificial stimulation. It is improbable, however, that post-natal contact with the mother is more important than pre-natal. Many eminent psychologists, for example, have maintained that the sexual passion of the parents during coitus is a very important factor in determining the health, mentality, and vitality of the resultant offspring, and in view of the important part played by the secretions of the ovaries and testes, and of the fact that these secretions are undoubtedly stimulated by the intense nervous and emotional excitation which are the concomitants of really passionate coitus, it would seem to be highly probable that the offspring would suffer through the dissociation of fertilization and natural coitus.

[1] Brown, W., *Mind and Personality*, pp. 189, 190.

Nor is this all. Although there is no evidence to prove that a woman who enjoys a healthy sex-life but who never becomes a mother suffers any of the physical or psychical disabilities to which women are liable who have never experienced coitus, it is fairly certain that pregnancy does, in some cases, enhance a woman's mental and physical health and well-being. There is, however, a graver objection than this. Mr. Haldane himself, we believe, has pointed out that the popular idea of the universality of "tabloid foods" in the future is scarcely likely to materialize because—although the chemical constituents necessary to fuel the human body might easily be assimilated in this way—man has developed, during the evolutionary process, an immense alimentary tract, and that unless this was provided with sufficient work it would be liable to get out of order, or degenerate, or atrophy, and so give rise to all manner of diseases.

It must be presumed, therefore, that the disuse of the uterus, which would necessarily follow the practice of producing ectogenetic children, would eventually lead to its atrophy—as in the case of the vermiform appendix. This would not only mean that women would become liable to all sorts of uterine diseases, but also that the ovaries would doubtless be affected and tend to degenerate, in which case there would be an end to both ectogenetic children and the human race, since without an adequate supply of healthy ova not even ectogenetic children could be produced.

We do not maintain that these difficulties which we have raised are insuperable; but for ourselves, we are of the opinion that the clinical alleviation of pregnancy is more likely to develop along other lines than these, at least in the immediate future. If it were possible for a woman to produce a healthy child several months earlier than it is at present, the curtailed gestation period, the smaller size of the child, and the greater ease in parturition would deprive maternity of most of its existing pain, discomfort, and physical impairment, and would not rob it of any of its pleasures. Furthermore, we consider it quite possible that this may happen.

Some years ago Beard drew attention to the *critical stage* in the development of an embryo—this stage being that reached when the fœtus first assumes its specific characters (in the case of man, when all its definitely human characteristics first make their appearance). He further argued that in the early days of mammalian evolution, before the allantoid placenta made its appearance, the birth period and the critical period coincided. In point of fact, this still actually occurs among some marsupials, while in non-pregnant human beings menstruation is regarded by eminent gynecologists as comparable to the abortion of an old ovum prior to a new ovulation. Similarly, Beard maintained that the mammalian ovulation period must originally have been approximately equal—actually a little longer—to the critical period, and held that the onset of ovulation was the direct cause of birth. With the development of the allantoid placenta, the parent mammal was able to retain and nourish a fœtus beyond the original critical stage (*i.e.* for a longer time than a single "critical unit"), and Beard showed that a correspondence still exists between the length of the gestation period and a certain number of critical and ovulation periods, and that multiples of the critical and ovulation periods must very frequently be times of abortion in mammals and human beings.[1]

In view of these facts it is reasonable to suppose that it may, in the future, be possible for medical science to stimulate artificially the abortion, or birth, of a healthy living child; just as Mr. Haldane assumes that it will be possible to stimulate lactation by artificial means. If such were the case, the length of the gestation period would be reduced, and women would give birth to smaller and lighter children, thus depriving maternity of much of its present danger, disability, and unpleasantness. It might, of course, be necessary to nourish these smaller and less mature children at first by artificial means, but this should not present any serious difficulty.

[1] Beard, J., *The Span of Gestation and the Cause of Birth: A Study of the Critical Period and its Effects in Mammalia*, ch. ix. and pp. 132 ff.; "The Rythm of Reproduction in Mammals," in *Anat. Anzeiger*, vol. xiv., pp. 97 ff.

We may here conveniently pause in order to recapitulate those speculations as to the future of marriage and the family which we have already advanced. Maternity, as we have indicated, is likely to be purged of most of its existing dangers and unpleasantnesses; will be quite voluntary, and far less frequently undertaken than is now the case among the working classes. Children will be practically cared for, educated, and supported by the State (the necessary taxation being met by married and single alike); the separate home, as we know it now, will in a large number of cases cease to exist—its place possibly being taken by large commodious flats, with attached restaurants, and every possible convenience. Working hours, already reduced to eight hours a day, will possibly be halved; considerable leisure will be available for all, and sexual relationships will no longer be haunted by the spectres of disease and involuntary maternity. What, then, of the future of morality?

Many pessimists and ecclesiastics would have us believe that a state of affairs such as we have predicted would be productive of unparalleled licentiousness and the final disintegration of society. They hold that the risks of disease and maternity constitute natural or divine checks upon promiscuous intercourse, and that their elimination would be immoral, unnatural, and disastrous. The argument that it is immoral or dangerous to interfere with nature is as familiar as it is puerile, but ever since man first made himself a crude weapon, tattooed his body or covered it with leaves or grass or an animal skin, learned to make a fire, and artificially prepared his food, he has been consistently interfering with nature, and had he not done so he would have retained the status of his ape-like ancestors. Moreover, most of the things our puritanical friends seek to prevent already exist. Most of the diseases are not only curable but preventable by prophylactic means; birth-control is widely practised, not only by artificial means, but also by natural or semi-natural means—innumerable couples have practised *coitus interruptus* for years, and the self-control demanded of the man has been found favourable in

securing more satisfactory orgasms in the woman—and it is thus already possible to escape involuntary maternity.

Ecclesiastics, and especially Roman ecclesiastics, maintain that coitus divorced from procreation is immoral. By what authority they make this declaration is unknown, but presumably it was revealed to them by the Creator Himself. In this volume, however, we have sought to show that coitus is something far more than a mere procreative device; that it is a source of renewal of psychical and physical vitality in the individual; that its judicious use is productive of creativeness, health, vigour, happiness, and pleasure, and that its repression or undue sublimation is responsible for all manner of mental and physical ills. Assuming that a Creator does exist and that the part played by a healthy sex-life is as important as science and medicine maintain, it is impossible to argue that coitus divorced from procreation is immoral, unless we are prepared to believe that the Creator has badly bungled the whole evolutionary process. Such a belief, however, is surely blasphemous. It remains, therefore, that non-creative sexual intercourse cannot in itself be immoral.

Professor Huxley, for example, is quite emphatic about this. "'Profane love' is in no way wrong nor degraded in itself," he writes, "but, just because it is so deeply rooted in us, so intimate, and so overwhelming, there is still a taboo upon it. All the important activities of life have had their taboos at one time or another, and sex is the last of the great taboos. . . . There are, of course, those who tell us that we should eat only to live and not enjoy our food. But the sooner this attitude to any of the natural activities of man is recognized as a mental disease the better."[1] In much the same way, Judge B. Lindsey writes: "Sex is a simple biological fact. It is as much so as the appetite for food. Like the appetite for food it is neither legal nor illegal, moral nor immoral. To bring sex under the jurisdiction of law and authority is as impossible as to bring food hunger under such jurisdiction; and we all instinc-

[1] Huxley, J., *Essays in Popular Science*, p. 134.

tively recognize that it does not belong there. . . . The crude sex hunger, like the food hunger, should be governed and controlled, not by legal fiat nor moral compulsion, but by the educated wisdom, common sense, and good taste of the individual." [1]

If judicious non-procreative sexual intercourse is neither harmful nor immoral among married persons, but healthy and beneficial, it inevitably follows that it cannot, of itself, be harmful or immoral when indulged in by unmarried persons. Official marriage simply implies legal recognition, mutual consent and a willingness to face certain obligations, plus the receipt of an ecclesiastical benediction in the case of a religious ceremony. Where mutual consent exists between two single persons, and where neither is under any obligation to the other, and the possibility of offspring is definitely obviated, the only thing that discriminates married from unmarried sexual intercourse—*qua* sexual intercourse—is the absence of the formality of a legal or religious ceremony. Such a ceremony, however, manifestly does not affect the characters of the persons concerned (except in so far as they are susceptible to social disapproval), the health of coitus, nor the morality or immorality of sexual intercourse, unless we are prepared to admit that marriage is a metaphysical business, or that it is unnatural and immoral for a person to marry more than once. The metaphysical contention is irrational and unverifiable, while the assumption that no person may marry more than once is equally absurd and contrary to both past and existing practice.

This is becoming increasingly recognized. "Society has no concern with the intimate relations of men and women save in so far as the procreation of children and the public health is concerned," [2] declares Judge Lindsey: "The sex relations of an individual should no more be subjected to social regulations than his friendships. . . . Sex experiences, like other experiences, can be judged of only on the basis of the part which they play in the

[1] Lindsey, Judge B., *The Revolt of Modern Youth*, p. 127.

[2] Lindsey, Judge B., quoted in *The Smart Set*, vol. lxxxi., No. 1.

creative drama of the individual soul. *There are as many possibilities for successful sex life as there are men and women in the world*," [1] writes Miss Isabel Leavenworth, a lecturer in philosophy at Barnard College; while the Rev. H. Lewis, the Episcopalian rector of St. Andrew's Church, Ann Arbor, recently maintained that "sex should be a beautiful part of life. A love affair should be recognized as a respectable, lawful union, which may be dissolved at any time. This should last at least two years before being legalized, and during these two years the couple should not have children—birth-control being available." [2]

With the pros and cons of the Rev. Lewis' proposal of probationary unions or trial marriages we have no concern here—our own objections to companionate marriages, *qua* marriages, have already been stated—but it is impossible to exaggerate the importance of this ecclesiastical admission of the fact that pre-nuptial sexual intercourse is not necessarily nor inherently immoral. Other ecclesiastics, of course, have vehemently condemned this dictum. Thus, Bishop Manning, also of the U.S.A. Episcopalian Church, denounced the Rev. Lewis and those of his fellow clergy who hold similar views, and declared that "unmarried unions or companionate marriages are not new. They are only modern and high-sounding phrases for the age-old immorality." [3] Doubtless Bishop Henson, and some of his Anglican colleagues, would have expressed their condemnation even more strongly, but no amount of ecclesiastical vituperation will make unclean those things which are inherently clean in themselves. The old idea that certain actions are absolutely right or wrong, irrespective of circumstances or results, has gone, never to return. Right and wrong are necessarily relative. Man is a social being; the product of an

[1] Leavenworth, I., "Virtue for Women," in *Our Changing Morality* (Kegan Paul, 1925), pp. 100-191.

[2] Lewis, Rev. H., at the Protestant Episcopal Church Congress, San Francisco, June 1927.

[3] Manning, Bishop, at the Episcopalian Church Congress, San Francisco, June 1927.

evolutionary process, and those actions only are wrong which arrest or retard the individual and collective physical, mental, and spiritual evolution of man, while all actions which conduce to individual and collective progress must necessarily be right and good.

To maintain, as do some of our ecclesiastical friends, that unmarried or extra-marital unions must necessarily be wrong because the vast majority of persons, upon their first so-called delinquency, experience a certain sense of guilt, is nothing but unmitigated nonsense. Such a sense of guilt unquestionably does exist, but it does not constitute the verdict of the individual's own conscience on the absolute rightness or wrongness of his or her action. On the contrary, the sense of guilt is, in most cases, entirely artificial—in other words, it is not an individual judgment but an assimilated social judgment. Society, as we saw, sought to convert women into a form of absolute property during a certain phase of evolutionary development, and the high value attached to virginity and chastity was primarily due to the fact that these so-called virtues secured the exclusiveness of man's proprietorship. Similarly woman, as far as she was able, sought the more exclusive possession of man, while certain religions condemned sexual intercourse—sometimes even among the married—on entirely irrational grounds. Society as a whole, being naturally conservative, still retains these ancient and obsolete judgments, but as children are brought up to regard them as valid, and comparatively few persons, even when fully adult, really think for themselves, the sense of guilt to which we have referred is seen to be, upon analysis, nothing more than a consciousness of having broken a social taboo, which though ancient and irrational is still largely accepted. "The belief in the importance of rules of conduct is superstitious; what is important is *to care for good ends*. A good man is a man who cares for the happiness of his relations and friends, and, if possible, for that of mankind in general. . . . Whether such a man obeys the moral rules laid down by the Jews thousands of years ago is quite unimportant. . . . Relations between adults who are free

agents are a private matter, and should not be interfered with either by the law or by public opinion, because no outsider can know whether they are good or bad. . . . *The ideal to be aimed at is that all sexual intercourse should spring from the free impulse of both parties, based upon mutual inclination and nothing else.* . . . Every person who allows himself to think that an adulterer *must be* wicked adds his stone to the prison in which the source of poetry and beauty and life is incarcerated by 'priests in black gowns,'" [1] declares Mr. Bertrand Russell. "The gifts of nature and the works of man are only good or bad as we make good or bad use of them," [2] writes Professor Julian Huxley. "Belief is the parent of action; and so long as the majority of men refuse to believe that they need not remain the slave . . . of Transcendental Morality, they cannot reap the fruits of reason. If the minority became the majority, society with all its institutions and codes would be radically altered." [3]

The minority of to-day, however, will inevitably become the majority of to-morrow, and our existing codes will necessarily be altered. Indeed, a new moral code is already coming into existence. "The problems of sex," writes Dr. William White, "are going to find new values." [4] These new values, moreover, are going to apply to post-nuptial as well as to pre-nuptial sexual relationships. "To my way of thinking," declares Miss Ruth Hale, the President of the Lucy Stone League, "there are many legitimate grounds for divorce which ought to precede in importance the charge of infidelity. . . . If a man and woman can't live together in a kindly, friendly relationship, they can corrupt such a relationship until it presents a more serious aspect than some so-called moral dereliction." [5] Similarly, the Rev. A. W. Slaten writes: "The individual is beginning to recognize that neither partner to a marriage owns

[1] Russell, Hon. Bertrand A. W., "Styles in Ethics," in *Our Changing Morality*, pp. 12-15.

[2] Huxley, J., *loc. cit.*, p. 135. [3] *Ibid.*, p. 73.

[4] White, W. A., in the *Daily Express*, 18th Feb., 1929.

[5] Quoted by Rev. Slaten in *The Smart Set*, vol. lxxxi, No. 1.

the body of the other and that infidelity has cast too large a shadow across the happy face of marriage." [1]

The Rev. Slaten does not approve of extra-marital sexual intercourse, but on the other hand he does not consider, except in cases where it has become chronic, that it should be a justifiable ground for divorce. "Marriage," he maintains, "does not revolve solely about the faithfulness or unfaithfulness of a husband or wife. Preserving the sanctity of marriage means keeping the home a place of love and gentleness and tolerance, and developing it in beauty and nobility and joy. Suppose your husband has been faithless. Assuming that he has acquired no disease taint the act itself has no power to hurt you. If you did not know of it, you would continue exactly as before. Your husband's caresses would be just as sweet; his companionship just as desirable. . . . Infidelity appears to me to be a vastly overrated cause for divorce. . . . As a matter of fact doesn't infidelity usually occur under the flame of momentary passion? Need that necessarily imply disloyalty? Does it mean that the man has ceased to love his wife. . . . Infidelity has not killed the pleasure they found in each other's company, nor affected more than temporarily their mutual respect. *It is their sense of proprietorship that has been outraged.*" [2]

The Rev. Slaten's views are distinctly broad-minded, but although he does not hold "infidelity" to be the prime marital offence, he nevertheless seems to assume that it is inherently immoral, or wrong. In certain circumstances, of course, it unquestionably is wrong. It is wrong if it inflicts suffering or unhappiness, or if it results in general promiscuity, licentiousness, or the degeneration of character, but an extra-marital sexual relation can no more be immoral in itself than a pre-marital relationship. When once the proprietary attitude has been eliminated from marriage—and the sooner this happens the better—it will be recognized that extra-marital sexual relation-

[1] Slaten, Rev. A. W., "Do We Need a New Moral Code?" in *The Smart Set*, vol. lxxxi., No. 1, p. 27.

[2] *Ibid.*, pp. 28, 123.

ships no more necessarily involve disloyalty or lack of affection than do extra-marital friendships.

Under the existing code, however, there can be no doubt that the freedom of husband and wife is unwarrantably restricted, not only in the matter of extra-marital sexual relationships but also with regard to extra-marital friendships between the sexes. But this is already changing. "The intensity of friendships between people of the same sex appears to be diminishing," writes Mr. Floyd Dell. "As women become free and equal with men such romantic intensity of emotion finds a more biologically appropriate expression." [1] Such friendship between the sexes, as Mr. Dell admits, "is usually spiced with some degree of sexual attraction," but need constitute no real menace to connubial affection, for such a degree of sexual attraction which may be sufficient to keep a "friendship forever sweet may prove unequal to a more serious and intimate relationship." [2] It is possible, then, that husbands and wives of the future will realize this, and that "marriage may have to yield something" in deference to such friendships. "It may not be good manners for husbands and wives to be jealous of the quite possible momentary exuberances of each other's friendships," Mr. Dell continues; "it may be that such incidents will be regarded as being within the discretion of the person immediately concerned, and not quite proper subjects for inquiry, speculation, or comment by anyone else." [3] Such extra-marital relations, however, will undoubtedly be recognized for what they are worth—something entirely subsidiary to the major marital relationship—and Mr. Dell rightly reminds us that "if marriage may be conceived as yielding some of its traditional rights, extra-marital romance may well be called upon for similar concessions." [4]

Mr. Wells points out that such concessions are, in fact, already being made. "It is a fundamental convention in the romantic version of life that when a married woman

[1] Dell, Floyd, "Can Men and Women be Friends," in *Our Changing Morality*, p. 184.

[2] *Ibid.*, p. 189. [3] *Ibid.*, p. 191. [4] *Ibid.*, p. 192.

takes a lover she prefers him to her husband," he writes. "In three-quarters of the illicit love affairs in such a great centre as New York, London, or Paris, this is not true. It is possibly less true than the converse proposition about men. . . . For most, I have no doubt that if the husband's life or prosperity or pride had been seriously threatened," the lover would have been "sacrificed with about as much regret as, let us say, a once worn dinner-dress that he found too frank or discreditable, or a pet dog he did not like." [1]

The fact, which will readily be recognized in the future, and which is already winning recognition, is that marriage does not, and cannot, radically alter the nature and inclinations of human beings. To assume that a man is instinctively polygamous or appreciative of variety before marriage, but that he is miraculously purged of such instincts and inclinations at the altar, is frankly absurd. Some natures, of course, are capable of a single affection which satisfies their every need, just as some persons are satisfied with a single friendship, but this peculiarity of temperament is not necessarily a virtue, and it is indisputable that persons possessing such temperaments constitute rare exceptions to the general rule. The average man or woman experiences no such inward urge to place all his or her eggs in one basket, and it has yet to be proved that such single-mindedness in the matter of friendship and affection is conducive to greater social utility. Marriage was made for man, not man for marriage, and to turn it into a cramping relationship is to defeat its primary object—the mutual happiness and utility of the married couple.

As an argument against extra-marital sexual relationships, at least on the part of women, it is sometimes maintained that man is instinctively polygamous and woman instinctively monogamous. In a state of nature, however, the sexes are comparatively equal in number, and it is difficult to see how man became polygamous if woman remained monogamous. It is a matter of experience, moreover, that women in primitive communities, and also healthy and unrepressed girls in civilized societies,

[1] Wells, H. G., *The World of William Clissold*, pp. 516-17.

evince just as great a love of variety as do men; indeed, we have heard innumerable girls question their ability to be entirely satisfied with only one man. Sooner or later most of these girls marry and "settle down," but it is far more likely that a fear of the consequences, economic or otherwise, of outraging the proprietary "rights" of the husband inhibits their innate love of variety after marriage than that the mere fact of marriage has radically changed their true temperaments. Admittedly, a normal woman does not seek to initiate a sexual liaison in the same way as does a man—it is the man's rôle to stimulate feminine sequaciousness by the exercise of masculine hegemony—but this does not imply that the feminine love of variety is less acute than the masculine, but only that it is differently expressed.

The assumption that man is naturally polygamous and woman monogamous is a convenient masculine fiction, and its popularity was and is very largely due to the fact that it seemed to justify the existence of the old double code of morality—one for man and another for woman. This is absolutely indefensible, although a great deal of ingenuity has been exercised in a vain endeavour to vindicate it. Conspicuous among the more recent champions of the double code is Mr. Ludovici, whose two books on this subject are notable rather for their ingenuity of argument than for their scientific accuracy. This is not to suggest that Mr. Ludovici is consciously dishonest, but it is to maintain that he seems to have consciously or unconsciously set out as the champion of a preconceived theory and that he appears to have selected only such facts as are favourable to his foregone conclusions.

Over and over again Mr. Ludovici reveals his conviction that woman has only two functions, namely, to reproduce the race and to minister to man's pleasure. This was the accepted belief of the Hindus, and he is never tired of quoting from the *Laws of Manu*, and of referring us to "The ancient Hindus, from whose great wisdom nothing was hidden." [1] In our earlier chapters we also have had occasion to quote freely from the *Laws of*

[1] Ludovici, A. M., *Woman: A Vindication*, p. 189 n.

Manu, and our readers will be able to draw their own conclusions as to the ideality of this primitive code. Mr. Ludovici's arguments, however, are sufficiently ingenious to warrant critical examination.

"Woman," he writes, "like her mammalian ancestors in the lower animals has suitable and elaborate structures, differentiating her sharply from man, by means of which she bears her young alive and suckles them for some time after birth . . . the human female cannot consummate her destiny, cannot display the full gamut of her endowments, unless she experiences motherhood, and the whole normal relationship between mother and child." [1] This statement is substantially correct, but the conclusions which he draws from it are, to say the least, distinctly naïve. "The repeated birth of a child at regular intervals," he writes, "thoroughly adapts the woman . . . to the monogamic state and the home." Repeated child-bearing ensures enjoyment of "the perfect serenity of mind and body that complete adaptation brings. She can afford to pretend devotion, for economic and other reasons, to a creature (the husband) who has long ceased from holding even that space in her heart which is occupied by her first baby's smallest toe. . . . She is finding the consummation of her being in the life she is leading, and let her husband be ever so besotted, ignorant, boring and uncompanionable, it will never occur to her to go in search of another love." [2]

Mr. Ludovici maintains that the truth of this is proved by the divorce statistics. In point of fact, however, the statistics merely prove that women who constantly bear children have their sexual desires so vitiated, and become such overworked domestic and maternal slaves that any spirit of revolt is entirely crushed; and that the economic difficulties attending divorce become almost insuperable; while women themselves and doctors will emphatically deny that *continuous* child-bearing is either healthy or pleasurable. In maintaining that women find *greater* pleasure and adaptation in pregnancy and lactation than they

[1] Ludovici, *Man: An Indictment.*

[2] Ludovici, *Woman: A Vindication*, pp. 179, 184-5.

do in coitus, moreover, Mr. Ludovici contradicts many of his own arguments, for he states elsewhere that coitus "is probably the oldest and most profound of the consequences of sex-dimorphism. *It is incalculably older than parenthood, and the relationship of either sex to offspring.*"[1] But if coitus is the "most profound" of the consequences of sex-dimorphism, it inevitably follows that gestation, parturition, and lactation, no matter how important and necessary, must be less profound, yet Mr. Ludovici blandly asserts that although a "man should, *of course,* have a concubine of some sort," his wife, providing she "continues child-bearing at regular intervals, as she should . . . cannot weary of the (marriage) relationship."[2]

This is manifestly absurd. The woman who constantly bears children from puberty to the menopause—Mr. Ludovici's (and the Hindu) ideal—not only undermines her own health, but also that of her children. "Rational birth-control," declares Professor Huxley, "would give a chance of reasonable existence to millions of women, whose lives are now made a burden to them by a succession of confinements . . . it would improve the physique of the children and give them a better chance in life."[3] Incidentally, he points out that "the proportion of miscarriages and abortions increases with age and the number of pregnancies,"[4] while Dr. Ploetz discovered that whereas the death-rate of seventh-born children was about 330 per 1,000, that of twelfth-born was 597, or approximately 60 per cent.[5]

Mr. Ludovici, however, is content to ignore these scientific and medical facts. His case, he maintains, is proved by the fact that the mothers of large families rarely indulge in extra-marital liaisons, and are therefore necessarily contented with their lot. As well might he argue that an overworked man is contented with his lot, because—thanks to lack of vitality and opportunity—he rarely rebels against it. Sexual activity represents a sur-

[1] Ludovici, *Man: An Indictment*, p. 17.

[2] Ludovici, *Woman: A Vindication*, pp. 171-2.

[3] Huxley, J. S., *Essays in Popular Science*, pp. 135-6. [4] *Ibid.* p. 60.

[5] Ploetz, quoted by Dr. Marie Stopes in *Married Love*, p. 155.

plus of bionic energy, or viability, and the primary reason why sexual liaisons are more common among childless women, or those possessing only one or two children, is that these women possess greater viability. This is clearly pointed out by Mr. Wells. " A few generations ago a woman's work," he writes, " was never done. Now for many it is over before it is begun. . . . Much knowledge that was once hidden has come to them. Motherhood is no longer an oppression, nor even the fear of motherhood. For a great number this means a release of sexual imaginations. *They have blank time, unexpended energy, and an inherent predisposition for the excitements and beauties of love.*" [1]

In many ways, Mr. Ludovici's book reminds us of Gonzalo's commonwealth—" the latter end . . . forgets the beginning." Thus, he early informs us that woman, the child-bearing automaton, is of necessity unfit to be the companion of man—in marriage, he declares, " companionship is not to be sought " [2]—yet elsewhere he informs us, and quite rightly, that " Since the demands of life make it necessary, when once woman has abandoned her attitude of chaste resistance, to yield wholly and unreservedly to the male, there is in all women a certain sequaciousness . . . to those who have engaged their affections, which makes woman the most naturally constituted follower," and enables her " to assimilate and to form herself according to another's pattern." [3] This is, of course, precisely what a man desires and what a woman is peculiarly fitted to give, but only if she does not permit herself to degenerate into a mere reproductive organism.

In point of fact, when Mr. Ludovici temporarily forgets his anxiety to limit woman's function to reproduction he provides us with some quite interesting material. For example, defining " love " as " mutual attraction culminating in a condition of mutual irresistibility," and as " the desire that makes two young positive people wish to unite," [4] he points out that this emotion

[1] Wells, H. G., *The World of William Clissold*, p. 516.

[2] Ludovici, A. M., *Woman : A Vindication*, p. 171.

[3] *Ibid.* pp. 316-7. [4] *Ibid.* p. 128.

or sentiment is, except in very rare cases, necessarily transient. "Unlike the mere association of friends," he writes, "the married couple are united chiefly by a physical bond which has its basis in an act of *passion*, an act of *desire*, an act of *power*." [1] It is here apparent that Mr. Ludovici is limiting the scope of marriage to mere coitus and reproduction, and that what he defines as "love" is little more than uncomplicated sexual desire. Mr. James Douglas some time ago demanded the invention of a new word for "love." What we actually want is at least half a dozen, for at present we have to differentiate between the different types of love by using adjectives—some of which, such as "sacred" and "profane," are entirely inaccurate and misleading.

Of the many divergent types of love, we may mention love of God, love of humanity, love of country, love of friends, maternal love, filial love, sexual love (sometimes called passion), and what Dr. Marie Stopes calls "married love"—the love of husband and wife. "Love," writes Professor T. P. Nunn, "is not a single emotion, but a system embracing a manifold of feelings, which arise, replace one another, disappear and return, in accordance with the varying phases of the agent's relations with the beloved object." [2] This is essentially true of "married love," which includes physical desire (sometimes misnamed "profane love"), and that true friendship and tenderness which is rooted in mental and spiritual compatibility, mutual help and comfort, the memories of successes and misfortunes shared, and a score of other things.

Mr. Ludovici, however, is quite right in maintaining that except in very rare cases acute sexual ardour is essentially transient, and that after a matter of months or years its initial white heat inevitably diminishes. When every barrier is at length down and intimate relationships have lasted for some considerable time coitus no longer remains an act of *passion*, *desire*, and *power*. It no longer arouses in the man the strong

[1] Ludovici, A. M., *Woman: A Vindication*, p. 141.

[2] Nunn, T. P., *Education: Its Data and First Principles*, p. 144.

zeal that stimulated him in his first conquest, and it ceases to be an exciting act of surrender on the part of the woman. All this is inevitable: passion and desire are sated by full satisfaction; a sense of power is a concomitant of true conquest; glamour and romance are aroused primarily by the new and unfamiliar, while even beauty tends to pall with familiarity. Thus a play, or an Oriental scene, which upon first sight seems infinitely romantic, tends to become commonplace with familiarity; the first successful ascent of an hitherto unclimbed mountain is accompanied by a thrill of power which subsequent ascents can never recapture; and daily contact with even the most beautiful picture or statue ultimately destroys the enthusiastic admiration which filled the person when he or she first saw and admired it.

But while all this is true of the intimate relationships of a man and wife, it does not imply that because something has been lost nothing has been gained. Thus coitus, even after the disappearance of initial passion and glamour, is potent to draw out qualities of infinite tenderness and sympathy which were unknown in the early days of the association of the couple, and the intimacy of daily life—when husband and wife are truly compatible—serves only to strengthen the bond of true companionship. It must also be admitted, however, that the losses to which we have drawn attention are very real and that they constitute the true motive of most extra-marital relationships. Thus, commenting upon the average married woman who indulges in a lover, Mr. H. G. Wells writes: "In a life of thin, unexacting routine love also becomes a routine. She has no sense of glorious giving, no sense of self-escape. . . . But when she steals away to a lover all this is changed. You can hardly call her a faithless wife, for when she steals away she is no longer a wife. . . . They both keep holiday from the commonplace verities. They go out of the world. She becomes as much a goddess as Diana visiting Endymion. . . . As Diana in a secret cave remote from the things of every day she betrays nobody. Restored to her self-respect, to her belief in her

possible loveliness, she can return to her . . . husband with a pleasant sense of dignity preserved and equality restored." [1]

The picture drawn by Mr. Wells, though somewhat inadequate, is substantially correct. It must not be assumed, however, that it is only a person who is neglected by husband or wife who sometimes experiences a desire for an extra-marital relationship. The assumption that a normal or average human being is capable of being attracted to or feeling an affection for one person only is an absurd fiction, and it is as ridiculous to presume that an affectionate regard for a second person necessarily destroys the love of the first as it is to suppose that a subsequent friendship automatically destroys an earlier one. The majority of men and women can usually, upon looking back over life, recall memories of at least half a dozen relationships—not necessarily what is now called "illicit"—with persons of the opposite sex which have enriched their lives with inspiration or affection or romance, and this despite the fact that connubial convention would probably induce them to belittle such relationships if questioned about them by their marital partners. The conventional pose which induces husbands and wives to pretend that they are all in all to each other and that no one else has ever really meant anything to them is a relic of primitive possessiveness, but rarely deceives any intelligent person. In point of fact, a highly civilized man or woman is social through and through, and to belittle the contribution of A—whether intellectual, companionate or sentimental—simply because B has possibly given a little more is frankly infantile. At present we should rightly consider a man eccentric who boasted that he had never read more than one author or possessed more than a single friend, and it is highly probable that the time will come when a person will be considered exceptional, if not actually abnormal, who has never entertained a tender or sentimental regard for more than one person of the opposite sex.

It is possible, then, that in the future a plurality of sentimental attachments will be considered quite as respectable as a plurality

[1] Wells, H. G., *The World of William Clissold*, p. 516.

of friends, and that husbands and wives will no longer be animated by a spirit of cramping possessiveness. When such an era dawns, however, the present deceits practised between husbands and wives will be regarded as petty and despicable, and the popular Naval toast, "Sweethearts and wives, may they never meet!" will have lost its present significance. It is reasonable to assume, however, that the extra-marital relationships of the future will be less sordid and undignified, less vulgar and degrading, than are those which so frequently exist at the present. "A great number of business men and active men of affairs," writes Mr. Wells, "are frittering their sexual interests away . . . getting no use or companionship out of women in their essential lives . . . practising small adulteries, having 'affairs' with little dancers, chorus girls and a miscellany of such women." [1] Mr. Wells has nothing but contempt for this: he realizes—though many modern people seem incapable of appreciating the difference—that although a so-called "illicit" relationship may be vulgar and immoral with one woman a similar relationship may be beautiful and inspiring with another. "For most of us sexual life is a necessity," he writes, "and a necessity not merely as something urgent that has to be got rid of by, for instance, incidental meretricious gratifications, but as a source of energy, self-confidence and creative power." [2]

Mr. Wells quite rightly discriminates between the intimacy following true courtship and that actuated by simple lust. "Grossness," says one of his characters, "is no incentive to change and exploration. Bodily desire has been the lesser part of this business to me. Whatever else I have desired, invariably the leading thing I have desired has been personal response. And the next thing to that has been something hard to name, a kind of brightness, an elation, a material entanglement with beauty." [3] Indeed, unless a sexual relationship has in it something of beauty, tenderness, strong attraction, spontaneity, mutual respect and response, it is unquestionably degrading, and

[1] Wells, H. G., *loc. cit.*, pp. 757-8.
[2] *Ibid.* p. 759.
[3] *Ibid.* p. 512.

its memory, instead of being treasured as something precious, will constitute a source of shame. Sexual or sentimental relationships, in fact, yield their psychological and physiological treasures only when there is true courtship and genuine response.

Liberty such as we have envisaged, however, must necessarily be attended with dangers, for liberty is liable to be abused, and things not necessarily immoral in themselves may, in certain circumstances, become grossly immoral. Most countries, for instance, permit liberty in the matter of alcoholic indulgence, and no enlightened person regards the reasonable use of wines and spirits as inherently immoral. Practically everyone, however, recognizes that alcoholic indulgence may very easily degenerate into a vice. It is vicious, for example, if it obtains an undue hold upon a man; if it impairs his vitality or mentality, or detracts from wider interests, or impairs his social utility. Similarly, it is immoral if it debases his character, turns him into a sot or a beast, or if it causes him to inflict misery upon others, or if his indulgence is made at the expense of those dependent upon him for their support. And what applies to alcoholic indulgence applies even more strongly to sexual indulgence.

"I am all for moderation, for moderate gratification," writes Mr. Wells, "but it is not always easy to arrange or define moderation. . . . Sexual enterprise grows with success. It clamours for more. Give it an inch and it takes an ell. Permit the song of Pan to be sung and presently it will be demanded with variations. Nothing complicates so easily and rapidly. Nothing is so steadfastly aggressive. Nothing is so ready to enhance itself with insane fantasies. Nothing under check or defeat is so apt to invade and pervert other fields of interest and take substitutes and imitations rather than accept complete denial."[1] Sexual indulgence, in brief, though perfectly legitimate, and even advantageous, in moderation, can easily degenerate into debauchery, and debauchery is deadly.

"There is in debauchery," writes Mr. Aldous Huxley, "something so intrinsically dull, something so absolutely and

[1] Wells, H. G., *loc. cit.*, p. 420.

hopelessly dismal, that it is only the rarest beings, gifted with much less than the usual amount of intelligence and much more than the usual intensity of appetite, who can go on actively enjoying a regular course of vice. . . . Most habitual debauchees are debauchees not because they enjoy debauchery, but because they are uncomfortable when deprived of it. Habit converts luxurious enjoyments into dull and daily necessities. The man who has formed a habit of women or gin, of opium-smoking or flagellation, finds it as difficult to live without his vice as to live without bread and water, even though the actual practice of the vice may have become in itself as unexciting as eating a crust or drinking a glass of water from the kitchen tap. . . . Imagination may exert itself in devising the most improbable variations of the normal sexual theme; but the emotional product of all the varieties of orgy is always the same—a dull sense of humiliation and abasement." [1]

It is quite obvious, then, that man will have to become fully adult before he can advantageously enjoy wider sexual freedom, but it is also certain that sooner or later he will have to grow up. He cannot always remain a child, directed or coerced, as the occasion requires, by extraneous codes and taboos. He must recognize that a creature worthy of the dignity of a truly civilized human being must govern his conduct not by a set of supposedly transcendental rules, but by living principles, and he must recognize that actions which may be quite moral and legitimate in some circumstances may be illegitimate and highly immoral in others. The God within, rather than the God without, will be the ultimate arbiter of conduct, and man will inevitably become less dogmatic about the precise nature and attributes of a personal and transcendental God, and may even possibly be dubious of His existence. But this does not mean that man will necessarily become irreligious. "I have since met with many very godly people who have a great knowledge of divinity, but no sense of the divine," wrote the late Bishop Butler, "and again, I have seen a radiance upon the face of

[1] Huxley, Aldous, *Point Counter Point*, pp. 299, 300.

those who were worshipping the divine either in art or nature—in picture or statue—in field or cloud or sea—in man, woman, or child—which I have never seen kindled by any talking about the nature and attributes of God. Mention but the word divinity, and our sense of the divine is clouded." [1]

It is reasonable to suppose, therefore, that the religion of the future will be a fuller and freer religion than the religion of to-day, and that it will have exorcised its old sexual and other taboos. "If our religion is a true religion, a *religion of fuller life*," writes Professor Huxley, "it must both tolerate and revere variety. . . . But our tolerance must not be merely passive, a tired intellectual gesture; it must be active, springing from the belief and knowledge that truth is too large to be revealed in but one form, or one creed, or one way of life. We must accept the hard saying that out of diversity alone comes advance, and that any one human mind is too small to grasp more than a little truth, to live more than a little reality." [2]

In point of fact *a religion of fuller life* is the only true religion, and is the one thing that mankind stands most in need of at the present time. "In the beginning of the Scottish Shorter Catechism," writes Mr. Edwin Muir, "there is a beautiful affirmation. 'The chief end of man,' it says, 'is to glorify God and enjoy Him forever.' . . . The terms of the dogma are a little antiquated now, but it would be easy to restate them in modern language. For 'God' we might substitute 'nature and man' or, if we were metaphysically inclined, 'God in nature and man' . . . and that being so, it is the task of those who are a little more serious than the serious to set about discovering the principles of glory and enjoyment in life. And—I am setting down a truism—the main principle of enjoyment for the human race is not art, nor thought, nor the practice of virtue, but for man, woman, and for woman, man. . . . To accept men and women *as ends in themselves*, to enter into their life as one of them, is to partake of absolute life, that life which at every

[1] Butler, S., *Erewhon*, p. 173.

[2] Huxley, Professor J. S., *Religion Without Revelation*, p. 376.

moment realizes itself, *existing for its own sake. . . . Life does not consist, whatever the utilitarians may say, in functioning, but in living*; and life comes into being where men and women, not as functions, but as self-constituted entities, intersect. . . . This commerce between men and women is not merely sexual, in the narrow sense which we have given the word; *it involves every human joy*, all the thoughts and aspirations of mankind stretching to infinity. It is the thing which has inspired all great artists, mystical as well as earthy. It is the point of reference for any morality which is not a disguised kind of adaptation; *for virtue consists in the capacity to partake freely of human happiness.*" [1] This is also the true kernel of the religion of the Founder of Christianity—stripped of moral and intellectual limitations and taboos of the time—for He emphatically declared that His mission was to give life, and life more abundantly. Evolution and civilization are meaningless unless they involve a fuller realization of life, and since all humanity is literally one family —part and parcel of the same Life Principle or God or Absolute —true morality consists in striving for a fuller enjoyment of life for each and all.

The citizens of the future, we believe, will govern their lives and conduct by these principles. They will realize that " man cannot live by bread alone," and that selfish pleasure-seeking will not only fail to satisfy, but will also prove fatal to both society and the individual. This does not mean, however, that all actions will be strictly utilitarian, that beauty and leisure and recreation will be despised; but it does mean that the attitude of Mme. du Châtelet, who maintained that there was " nothing else to do in the world but to obtain agreeable sensations and sentiments," will be recognized as fatal. The future generation will undoubtedly appreciate the fact that undue indulgence or undisciplined desire may easily deprive man of his hard-won inheritance, and that he can only retain that inheritance and add to it by the exercise of discretion and self-discipline. Our descendants

[1] Muir, Edwin, " Women—Free For What ? " in *Our Changing Morality*, pp. 69, 79-81.

will no doubt enjoy a fuller, freer, more leisured and complete life, but they will also possess a more developed sense of values, and will realize that a complete life demands not only personal pleasure and enjoyment, but also social service, and the cultivation of mental and spiritual qualities—the pursuit of Beauty, Truth, and Goodness.

For ourselves, we have no fear for the Future, and believe, as also does Professor Alexander, that the quality of deity is emergent in man, and that humanity will eventually enter into its full human and divine inheritance. This belief constitutes the major dogma of the religion of innumerable men and women now living. It will be the living faith of the next few generations, and according to man's faith so will it be unto him.

INDEX

A

Abyssinia, conjugal appropriation of captured women in, 87.
trial marriages in, 160.
Achin, deferred consummation of marriage in, 125.
Acosta, J. de, on observance of virginity in Mexico, 122.
Adair, J., on absence of celibacy among American Indians, 119.
Admiralty Islanders, scanty dress of, 56.
Adultery, as a heinous form of theft, 142.
punishments in various countries for, 142-5.
Dean Inge on, 147.
exaggerated importance of, 330-1.
Affinity, primitive systems of, 19, 19*n*
African tribes, pendent breasts of, 52.
cicatrization among, 54.
dress worn only on special occasions among, 57.
comparative rarity of conjugal love among, 76.
cases of elopements and suicides among, 83.
chastity essential to marriage among, 90.
absence of spinsters among, 119.
Ahts, wife capture followed by purchase among, 70.
Aleuts, divorce among, 149.
exchange of wives among, 151.
Alimony, lack of justice in award of, 247-9.
Ambrose, Saint, on divorce, 176.
America, United States of, white-slave traffic in, 92.
result of suppression of prostitution in, 93.
statistics of juvenile sexual delinquency in, 95-8.
horse and cattle theft a capital crime in, 142.
trial marriages in, 161.
grounds for divorce in, 182.
award of alimony in, 247, 249.
Model Law of, 262-3.
rarity of ideal homes in, 307.
American Indians, North, fear of menstruation among, 38.
fear of childbirth among, 39.
choice of chiefs among, 44.
artificial accentuation of colour among, 50.
foreheads artificially flattened among, 51.
wrestling for women among, 59-60.
wife purchase price among, 71.
prestige of wife first married among, 81.
marriage with certain wives sometimes never consummated among, 82.
chastity essential to marriage among, 90.
rarity of celibacy among, 119.
virgins and widows regarded as dead among, 119.
celibacy of medicine-men among, 122.
deferred consummation of marriage among, 123, 126.
punishments for adultery among, 143.
chief wife chosen by parents among, 157.
trial marriages among, 159.
American Indians, South, capture of wives among, 66.
Ancestor worship, among Aryans, Semites and Mongols, 43, 163, 166.
in China, 42-3.

Andaman Islands, sexual laxity among girls in, 88.
Anderson, C. J., on wife capture among Bushmans, 66.
Angas, G. S., on scanty dress of Australians, 55-6.
Animals, preservation of species among lower, 3.
absence of copula among lower, 4.
transient association of sexes among lower, 4.
importance of copula among higher, 8, 10.
reasons for non-gregariousness of, 9, 23.
periodicity of rut among, 26.
breeding season governed by food supply among, 26-7.
emancipation from primitive rut of domesticated, 30.
secondary sexual characteristics of, 48.
sexual selection among, 56.
partners frequently changed among higher, 148.
Apes, anthropoid, family life among, 4-6.
association of sexes among, 5, 148.
mainly monogamous, 21, 22.
Arabia, virginity essential to marriage in, 90.
Arabs, mock bride capture among, 68.
traffic in women among, 91.
Armenia, religious deflowering of virgins in, 15.
precautions taken by newly wedded in, 129.
Arunta, fear of woman's blood among, 37.
Aryans, religious motive for children among, 43.
powers of father among, 162.
Ascaris dactyluris, mother sacrificed in reproduction, 319.
Ashantees, taboos on pregnancy among, 40.
divorce for desertion among, 154.
Assam, deferred consummation of marriage in, 125.
Assyrians, marriage by purchase among, 72.
Athens, prostitutes owned by eminent men in, 91.
loan of wives in, 144.
bachelors liable to prosecution in, 166.
Auguries, importance of auspicious, 110-11.
essential to marriage in Rome, 170.
Augustine, Saint, on celibacy, 136.
on divorce, 176.
Australia, Western, divorce in, 182.
Australians, communal marriage unknown among, 21.
mostly monogamous, 22.
families widely scattered among, 24-5.
taboos on menstrous women among, 38.
vanity of, 53.
decorations worn by, 55-6.
dress worn only on special occasions among, 57.
feminine regard for male prowess among, 59.
capture of women among, 66.
marriage by exchange of kin among, 70.
precedence of wife first married among, 82.
juvenile sexual intercourse among, 88.
creation myths of, 114.
absence of spinsters among, 120.
deferred consummation of marriage among, 125.
most attractive girls monopolized by old men among, 140.
adultery cruelly punished among, 142.
repudiation of wives among, 151.
presence of children preclude divorce among, 153.
Austria, divorce in, 182.
diseases due to incomplete coitus in, 223.

B

Bachelors, savage peoples' contempt of, 128-1.

Bacon, Prof. B. W., on Mark's familiarity with Roman divorce, 186.
on composition of Mark's gospel, 188.
on object of Mark's gospel, 189.
on Q, 189-90.
on Matthew's gospel, 190.
Babylonians, religious deflowering of virgins among, 14.
marriage by purchase among, 71.
creation myth of, 114.
Baganda, deferred consummation of marriage among, 126.
Bailey, J., on monogamy among Veddahs, 22.
on divorce among Sinhalese, 150.
Bain, Prof. A., on nature of love, 76.
Balfour, A. J. (Lord), on inadequacy of materialism, 216.
Baluchistan, deferred consummation of marriage in, 124.
Balzac, H., on prostitution, 93.
Bancroft, H. H., on divorce among Aleuts, 149.
Bantus, loan of wives among, 16.
magical beliefs of, 36.
prolonged suckling period among, 41.
wounded men forbidden milk among, 41.
polyandry among, 45.
relics of marriage by capture among, 67.
wife abduction followed by purchase among, 70.
wife purchase price among, 71.
precedence of wife first married among, 82.
youngest wife often favourite among, 82.
absence of prostitution among, 89.
bachelors possess no social status among, 120.
sterility grounds for divorce among, 153.
relation between purchase price and divorce among, 153.
chief wife chosen by parents among, 157.
Barnes, W. E. (Bishop), on humanity of Jesus, 186.
on divorce, 207.
Barotze, duties of men among, 61.
Barrow, J., on monogamy among Bushmans, 22.
on scanty dress of Hottentot women, 56.
Barth, H., on absence of celibacy among Touaregs, 119-20.
Basutos, relation between purchase price and divorce among, 153.
Basil, Saint, on divorce, 175.
Beale, Dr. G. C., on social compatibility in marriage, 78.
on growth of eroticism with civilization, 85.
on health-promoting effects of copula, 220.
on evil effects of sexual repression, 221.
on psychical benefits of copula, 221.
on absence of orgasm among wives, 223.
on necessity of satisfaction in conjugal life, 224.
on wives' reaction to incomplete coitus, 224.
on sexual anæsthesia among women, 225.
on man's reaction to feminine frigidity, 225.
on mental compatibility, 233.
Beard, J., on critical period in pregnancy, 324.
Beaumarchais, on distinction between man and animals, 30.
Beauty, criterion of, among lower species, 49.
races possess own ideal of, 49-50.
universal norm of human, 51.
in males, 52.
in females, 52.
racial variations in standard of sexual, 52.
a factor in human selection, 58.
synonymous with health, 59.
more durable under civilization, 84.

Bedouins, mock bride capture among, 68.
frequent marriage among, 151.
Belgium, grounds for divorce in, 181.
Bellew, H. W., on advantages of polyandry in Ladakh, 46.
Bengal, marriage by service in, 71.
Bertillon, Dr. A., on inferiority of non-married in France, 104 *n.*
Beth Din, constitution of court of, 165.
Birds, co-operation of sexes among, 4.
emancipation from primitive rut among domesticated, 30.
secondary sexual characteristics of, 48.
sexual selection among, 58.
prolonged association of sexes among, 148.
courtship among, 218.
Birth control, favourable to early marriage, 95.
growing importance of, 313.
importance to health of rational, 336.
Birth-rate, periodic fluctuations in, 29.
consequences of frequent divorce on, 260.
adversely affected by birth control, 314.
Blemmyans, reported to be headless, 14.
Bock, C., on head-hunting Dyaks, 59.
Bode, M. de, on value of Turkoman widows, 62.
Bombay, precautions taken by bridegroom in, 129.
Bonaks, tribal organization among, 31.
wife entitled to repudiate husband among, 151.
Bosman, W., on absence of celibacy among negroes, 119.
Botis, polyandry among, 46.
Botocudos, facility of divorce among, 152.
Bourien, Father, on divorce among Mantras, 151.
Boys, value of among warlike peoples, 42.
religious value of, 43.
sexual laxity among American, 96.
sexual laxity among English, 99.
Brehm, Dr. A. G., on natural marriage among lower species, 148-9.
Brown, Dr. W., on sexual repression and neuroses, 222.
on personality, 298.
on psychical effects of breast-feeding, 322.
Browning, R., on masculine dependence on women, 230.
Bruce, J., on conjugal appropriation of captured women in Abyssinia, 87.
Buckmaster, Lord, on necessity of divorce reform, 240.
Bulgaria, grounds for divorce in, 181.
Burchell, W. J., on monogamy among Bushmans, 22.
Burckardt, J. L., on divorce among Bedouins, 151.
Burmese, precedence of wife first married among, 82.
absence of celibacy among, 120.
wives' right of divorce among, 154.
Bushmans, communal marriage unknown among, 21.
mostly monogamous, 22.
live in small hordes, 24.
woman a cause of war among, 66.
Butias, polyandry among, 45.
Butler, S. (Bishop), on joy of family reunions, 307.
on rarity of family affection among Erewhonians, 309.
on the World of the Unborn, 310.
on vitalism, 320.
on knowledge of the divine, 343-4.

C

Californian Indians, rutting season among, 27.
scanty dress of girls among, 55.
Campbell, Mr., on wife capture among Hottentots, 66.

Cape Colony, grounds for divorce in, 182.
Caribs, wife at disposal of Piache among, 17.
capture of wives among, 66.
repudiation of wives among, 151.
Carpenter, E., on necessity of sexual satisfaction in matrimony, 226.
Carver, J., on favoured wives among Indians, 82.
Casilis, E., on divorce among Basutos, 153.
Celebes, deferred consummation of marriage in, 125.
precautions taken by bridegroom in, 129.
Celibacy, development of ideas concerning, ch. viii., 119.
unknown among primitive peoples, 119.
examples of abhorrence of, 120-1.
imposed on priests and wizards, 122.
as an impiety and misfortune, 163.
Jesus on, 201.
Celibates, inferiority of, 104 *n*.
Ceremonies, of mock capture at weddings, 67-9.
examples of religious marriage, 110.
designed to outwit spirits at weddings, 127-30.
Chaldeans, marriage by purchase among, 71.
Châtelet, Mme. du, on agreeable sensations, 345.
Chaillu, Dr. P. B. du, on the gorilla, 5.
on loan of wives among negroes, 16.
Children, economic value of, 42.
religious value of, 43-4.
social advantages of, 44.
subordination of, 162-4, 166, 172.
disposed of by will, 167.
suggested provision for maintenance of, 274-6, 281, 285-6.
custody of, 276-7.
father's right of access to, 277.
compelled to support incapacitated parents, 278.
statistics of defective English, 302-3.
pre-natal care of, 312-3.
ectogenetic, 320-2.
future State control and support of, 325.
China, children compelled to support parents in, 43.
relic of bride capture in, 69.
absence of connubial love in, 76.
couples unknown to each other before marriage in, 76, 157.
putative motherhood in, 82.
wife may not be degraded to concubine in, 82.
concubinage in, 87-8.
virginity essential to marriage in, 90.
prostitution in, 91.
marriage rites in, 110.
celibacy imposed on priests in, 122.
precautions taken at weddings in, 129.
punishment for adultery in, 143-4.
divorce laws in, 154-5.
veneration of parents in, 162.
Chinese, traditional origin of marriage among, 1.
ancestor worship among, 43-4.
artificial accentuation of colour among, 50.
artificially deformed feet among, 52.
sterility grounds for divorce among, 154.
Chinooks, divorce at will among, 151.
Christian, theory of relation of man to God, 112.
concept of marriage, 116-7.
deprecation of marriage and copula, 136, 138.
Fathers on divorce, 175-6.
Christianity, adverse to divorce law reform, 86-9.
celibacy cardinal virtue of, 142, 147.
adultery cardinal vice of, 142, 147.
relation of Jesus to, 183-4.
views of modern, on humanity of Jesus, 185-6.

Chrysostom, Saint, on celibacy, 136-7.
on divorce, 176.
Cicatrization, reasons for, 53-4.
examples of, 53-4.
Cittagong Hill tribes, marriage regarded as animal connection among, 75-6.
Civilization, refining influence of, 77.
human selection complicated by, 79.
advantages of, 84.
responsible for lengthening of marriage, 158.
Coemptio, marriage by, 172-3.
Cohabitation, not only requisite in marriage, 250.
withdrawal from, grounds for divorce, 269-71.
Columbia, British, loan of wives among natives of, 16.
Compatibility, development of demand for marital, 77.
Milton on, 203.
distinguishable from identity, 209.
true nature of, 214.
importance of sexual, 226.
importance of mental, 226 ff.
essential requisites of, in marriage, 235-6.
Concubinage, a palliative to monogamy, 85.
origin of, 86.
in China and Japan, 155.
among Jews, 164.
in Greece, 167.
in Rome, 171.
Confarreatio, marriage by, 170.
Cook, Capt. J., on adultery among Tahitians, 143.
on divorce in Tahiti, 149.
Copula, absent among lower species, 4.
banned at certain periods, 40-1.
involves expenditure of bionic energy, 41.
regarded primarily as act of reproduction, 133.
reasons for deprecation of, 133, 138.
importance of stimulation of female before, 219.
importance of orgasm in, 220.
physical advantages of, 220.
psychical advantages of, 221.
mutual pleasure of, 221.
frequency of incomplete, 223.
diseases due to incomplete, 223-4.
ideally an act of passion and of power, 338.
Corea, deprecation of bachelors in, 121.
Cossacks, Saporogian, polyandry among, 45.
Coulanges, Fustel de, on ancient paternal powers, 163.
Courtship, among birds, 218.
an essential preliminary to copula, 219, 224.
Cousins, Rev. A. T., on seasonal increase in births, 28.
Cranmer, Archbishop, on evils of separations, 251.
Crawford, J., on absence of celibacy among Sumatrans, 120.
Creation myths, Christian, 1, 112-4.
miscellaneous, 114.
Critical period, nature and importance of, 324.
Cunningham, Sir A., on polyandry among Botis, 46.
Cunningham, Capt. J. D., on polyandry among the Lamaic Tibetians, 46.
Cupples, Mr., on selection among dogs, 63.
Curr, E. M., on monogamy among Australians, 22.
on marriage by exchange among Australians, 70.
on early marriage among Australians, 120.
Cutleria, advance of sexual dimorphism in, 211.

D

Dacothas, absence of bachelors among, 119.
Dahomey, all women at disposal of king in, 18.
punishment for adultery in, 143.
Dalham, M., on superiority of women, 210.

Dalton, Col. G. T., on *droit du seigneur* among Kukis, 18.
on annual saturnalia among Hos, 28.
Darwin, C., on sexual selection, 48, 58.
on beauty, 50.
on tattooing, 53.
on incest among animals, 63-4.
on male rôle in courtship, 212.
on expenditure of energy among sexes, 213.
Dell, Floyd, on friendships between the sexes, 332.
on future attitude towards extra-marital relationships, 332.
Demosthenes, on Greek paternal powers, 166-7.
Denmark, grounds for divorce in, 181.
Premier Zahle on freer divorce in, 268.
Desertion, in cases of disability, 25, 150.
Diderot, D., on possession of women 142.
Divorce, primitive, ch. ix., 148.
subject to arbitration among certain peoples, 152.
grounds for, among various peoples, 153-7.
difficulty of, where wife purchase is high, 153.
at discretion of wives in many countries, 154.
development of modern, ch. x., 162.
among Jews, 164-5.
among Greeks, 167-8.
among Romans, 169, 171, 173-4.
under Canon Law, 175, 177-8.
in England, 179-81.
grounds for, in modern European countries, 181-2.
Christianity and, ch. xi., 183.
Milton on, 192-4, 204-6.
views of modern Anglican theologians on, 207-8.
necessity of, 236-7.
necessity of reform of, ch. xiii., 238.
Lord Buckmaster on, 240.
practical suggestions relative to reform of, ch. xiv., 258.
evils of unrestricted, 259.
foulness of modern, 266.
increase of, not due to immorality, 267.
suggested principles governing reform of, 268-9.
by mutual consent inadequate, 269.
at request, 269.
modus operandi of suggested reform of, 270-87.
Doplas, polyandry among, 45.
Douglas, J., on *lése maternité*, 305.
on inadequacy of word "love," 338.
Dowry (*dos*), marriage by, 73-5.
laws regulating control of, 74-5.
forfeiture of, in divorce, 153-4, 157, 165, 168, 174.
Dress, origin of, 54.
examples of use of for sexual stimulation, 55-7.
sometimes worn only by unmarried, 57-8.
sometimes worn only by courtesans, 58.
Droit du seigneur, mistaken for evidence of communal marriage, 14.
examples of, 17-9.
Dyaks, feminine regard for male prowess among, 59.
wedding ceremonies among, 101.
absence of celibacy among Hill, 120.
divorce among, 149.
frequent marriages of women among, 150.

E

Earle, Mr., on Maori courtship, 67-8.
Ecbatana, story of Sarah of, 127.
Ectocarpus, beginnings of sexual dimorphism in, 211.
Eddystone Islands, prenuptial laxity among natives of, 89 *n.*
Egede, H., on notion of sexual impurity in Greenland, 121.

Egyptians, tradition of origin of marriage among, 1-2.
favourite wives among modern, 83.
creation myth of, 114.
frequent marriages among modern, 151.
Ellis, Major A. B., on love among Gold Coast natives, 75.
Ellis, Havelock, on diseases attributable to incomplete coitus, 223.
on divorce by mutual consent, 268.
Endogamy, reasons for practice of, 65, 77.
England, diaphanous lingerie associated with harlots in, 58.
relics of bride capture in, 69.
marriage by purchase prohibited in, 73.
juvenile sexual delinquency in, 99.
excess of women in, 103-4.
sheep-stealing a capital crime in, 142.
punishment for adultery in, 145.
development of divorce in, 179-81.
rarity of orgasm among wives in, 223.
diseases due to incomplete coitus in, 223-4.
sexual anæsthesia among women in, 225.
Report of Royal Commission on Divorce in, 240, 261-3.
cases of hardship under divorce law in, 241-7.
statistics of separations in, 252-3.
Anglican marriage vows in, 291-3.
Statistics of defective children in, 302-3.
Epiphanius, Saint, on divorce, 176.
Erewhonians, rarity of family affection among, 309.
myth of World of Unborn among, 310.
Ervine, St. John, on feminine attitude towards maternity, 304-5.
Eskimo, loan of wives among, 16.
polyandry among, 45.
Kinipetu, wife at disposal of Ankut among, 17.
Esquimaux, Malemoute, divorce among, 150.
Eugenics, importance of, 312-3.
Europe, seasonal birth-rate fluctuations in, 29.
children required to support parents in, 43.
feminine beauty in, 52.
relics of bride capture in, 69.
white-slave traffic in, 92.
pecuniary punishments for adultery in, 145.
trial marriages in, 161.
divorce in modern, 181-2.
Exogamy, widespread practice of, 65.
Extra-marital relationships, not necessarily immoral, 299-300, 331-2.
not necessarily fatal to love, 331-2.
importance of subordination of, 332.
why indulged in by many wives, 339.
advantages of, 339-40.
importance of discrimination in, 341-2.
Ex-wives, frequent remarriage of, among primitive peoples, 158.
suggested scheme of gratuities and pensions for, 284-6.
Eyre, E. J., on ornamentation among Australians, 53.

F

Family, tie among lower species, 4-6.
marriage rooted in, 6.
development of life of, 6-7.
units widely scattered among primitive peoples, 24-5.
children chief wealth of the, 33, 42.
reasons for dislike of marriage within, 64-5.
importance of, in ancient civilizations, 162, 170.
future of the, ch. xv., 296.
alleged ideality of the, 301.
rarity of ideal conditions in the, 302; 306.

Family, disability of children in the average, 307-8.
Fatherhood, dubious among savages, 20.
duties and powers of, 162-3, 166-7, 172.
revered among Aryans, Semites and Mongols, 163.
Felix, Marcus Minncius, on remarriage, 175.
Females, sexual characteristics of, 48, 51.
exercise of choice by, 58.
numerical superiority of adult, 80.
excess of, in England, 103-4.
marked ardour of, 149.
more anabolic than males, 211.
differ from males in diathesis, 212.
characteristically passive and sequacious, 213.
Fijians, frequent pregnancies a disgrace among, 40.
capture of wives among, 66.
bride purchase price among, 71.
supposed fate of bachelors among, 120.
notion of impurity of copula among, 121.
Fitzroy, Admiral R., on lack of gregariousness among Fuegians, 24.
on bride capture among Indians, 66.
Flores, deferred consummation of marriage among, 125.
Food, gregariousness dependent on supply of, 9, 24.
primitive social organization dependent on supply of, 25, 30-1.
primitive rut regulated by supply of, 26, 27, 29-30.
Fornication, as grounds for divorce, 175, 195.
word to be taken in general sense, 176.
word flexible to any interpretation, 178.
held to be translation of unknown Aramaic word, 196.
held to be limited to pre-nuptial unchastity, 196 *n.*
Milton on, 197.
Saint Paul on, 197.
word held to include apostasy and disloyalty, 197-8.
France, *droit du seigneur* among nobility of, 18.
marriage by dower in, 75.
custom of *dos* responsible for thrift in, 75.
inferiority of unmarried population in, 104 *n.*
abolition of Canon Law in, 118.
divorce in, 181.
Frazer, Sir J., on *jus primae noctis*, 9 *n*, 123.
on primitive magic, 34-5.
on taboos on menstruation and childbirth, 36, 38-9.
on primitive religion, 109.
on creation myths, 112-5.
on origin of Tobias nights, 123-30.
Free unions, modern increase of, 101.
origin of, 159.
Freud, Prof. S., on sexual repression and neuroses, 222.
Friedlander, on child marriages among Romans, 172.
Fries, Th. M., on domesticity in Greenland, 62.
Fuegians, communal marriage unknown among, 21.
food scarcity responsible for isolated families among, 24.
love of decoration among, 53.
capture of wives among, 66.

G

Galsworthy, J., on women who supply divorce evidence, 264.
on morbid curiosity, 265.
Galton, Sir F., on sexual repression and insanity, 222.
Garamantians, alleged promiscuity among, 14.
Garenganze, wife may repudiate husband among, 152.
Gates, R. T., on cruelty inflicted by separation law, 241-3.
Gautemala, freedom of divorce among Indians of, 152.

Geddes, Sir P. (also Geddes and Thomson), on division of labour among savages, 61.
on sexual dimorphism, 211.
on complementary nature of sexes, 214-5.
on physiological penalties of reproduction, 318-9.
Geikie-Cobb, Dr. W. F., on divorce, 207-8.
Genoa, Medical Consultation Bureau in, 313.
Germany, marriage by purchase prohibited in, 73.
marriage by dower in, 75.
punishment for adultery in, 145.
grounds for divorce in modern, 181.
Gibbon, E., on restoration of Roman divorce by mutual consent, 178.
on fornication, 178.
Girls, value of, in polygamous countries, 43.
marriage price of, 71, 81.
high value of beautiful, 81.
growing economic independence of, 95.
sexual initiative of American, 96.
statistics of sexual laxity of American, 96-8.
sexual laxity among English, 99.
revolt of modern, against double moral code, 106.
most attractive, appropriated by old men among primitive peoples, 140.
Goette, A., on death as a consequence of reproduction, 319.
Gold Coast, rarity of connubial love among natives of, 75.
Gollas, taboos on childbirth among, 39.
Gorell, Lord, on separations as an incentive to immorality, 251.
on principles governing divorce reform, 261-2.
on divorce by mutual consent, 269.
on pleas for restitution of conjugal rights, 269-70.
Goudy, Prof. H., on the Roman family, 170.
Goudy, Prof. H., on marriage among the *patricii*, 170.
Greece, marriage by purchase prohibited in, 73.
couples unknown to each other before marriage in, 77.
conjugal appropriation of captured women in, 87.
prostitution in, 91.
marriage rites in, 110.
virgin priestesses in ancient, 122.
punishment for adultery in, 144.
husband's right to bequeath wife and children in, 166-7.
regulation of divorce in, 167-8.
position of *hetairae* in, 167, 227.
Greeks, traditional origin of marriage among, 2.
marriage by purchase among, 71.
marriage by dower among, 73.
creation myth of, 114.
Greenland, wife at disposal of Angekokk in, 17-8.
wives chosen for skill in sewing in, 62.
early pregnancy disgraceful in, 121.
Gregariousness, a factor in natural marriage, 9-11.
disadvantages of, 24.
advantages of, 32.
responsible for stimulation of sexual desire, 33.
Gyneceum, segregation of wives in, 167, 227.

H

Haldane, J. B. S., on ectogenetic children, 321.
on benefits of breast-feeding, 321-2.
Haldane, Prof. J. S., on inadequacy of materialism, 216.
Hale, Ruth, on infidelity and divorce, 330.
Halebî, Ibrâhîm, on Muhammadan divorce, 157.
Hamilton, A., on *droit du seigneur* among Malabar Coast natives, 18.
Hawaii, divorce in, 151.

Hawksworth, J., on ornamentation among Fuegians, 53.
Hays, A. G., on alimony in America, 247-9.
on divorce by mutual consent, 268.
Hayti, gods believed to share human desires in, 130.
Hearne, S., on wrestling for wives among Redskins, 59-60.
Henson, H. (Bishop), on divorce, 207.
on the sanctity of the family, 300.
Herbert, Auberon, on evils of divorce procedure, 266.
Heriot, G., on advantages of large progeny among Redskins, 44.
on chastity among American Indians, 90.
on deferred consummation of marriage, 110.
Hermas, on divorce, 176.
Herodotus, on phallic rites in Babylonia, 14.
on wife purchase in the ancient world, 71.
Herrara, A. de, on trial marriages among Otomies, 159.
Hetaïrae, importance of institution in Greece, 167, 227.
Hos, annual saturnalia among, 28.
Hottentots, licentious feasts among, 28.
scanty dress of women among, 56.
capture of wives among, 66.
punishment for adultery among, 143.
Damara, polyandry among, 45.
Damara, divorce among, 150.
Houzeau, J. C., on conjugal appropriation of captured women in Livonia, 87.
Hovas, polyandry among, 45.
rarity of connubial love among, 75.
Hudson's Island, importance of religion in, 109.
Hungary, grounds for divorce in, 182.
Humboldt, A. von, on ideal national beauty, 49-50.
Husbands, powers of Chinese and Japanese, 155.
powers of Indian, 155-6.
powers of Muhammadan, 156-7.
powers of Jewish, 165.
powers of Greek, 166-7.
powers of Roman, 170-2.
consequences of sexual inaptitude in, 224.
effect of frigid wives upon, 225.
hardships inflicted by maintenance orders upon English, 241-4.
Huth, A. H., on incest, 64.
Huxley, Aldous, on consequences of debauchery, 342-3.
Huxley, Prof. J. S., on population problems, 313.
on profane love, 326.
on false idea of transcendental morality, 330.
on birth control, 336.
on religion of fuller life, 344.

I

Igorrotes, communal marriage unknown among, 21.
marriage ceremonies among, 110.
Incest, absence in animals of instinct against, 64.
no innate human instinct against, 64.
origin of dislike of, 64-5.
occurs chiefly among depraved persons only, 65 *n.*
Incompatibility, held analogous in fornication, 198.
considered fatal to Christian marriage, 200, 203.
as grounds for divorce, 265.
not assessable by a legal court, 265.
India, children compelled to support parents in, 43.
polyandry among mountainous tribes of, 45.
custom of Swayamvara in, 60.
capture of wives in, 67.
abolition of marriage by purchase in, 73.
marriage by dower in, 73.

India, frequent absence of connubial love in, 76.
rarity of couples meeting before marriage in, 76.
prevalence of pre-nuptial sexual laxity in, 88.
prostitution in, 88.
celibacy of Buddhist priests in, 122.
deferred consummation of marriage in, 124.
divorce laws in, 155.
Indian Archipelago, wives' right of divorce in, 154.
couples rarely meet before marriage in, 157.
trial marriages in, 160.
Indians, traditional origin of marriage among, 1.
virgins ceremonially deflowered among, 15.
Indo-China, prevalence of pre-nuptial sexual laxity in, 88.
couples seldom meet before marriage in, 157.
Inge, W. R. (Dean), on imprisonment for adultery, 147.
on divorce, 207.
on Christian matrimony, 290.
on grounds for ecclesiastical divorce, 290.
on nature of Protestantism, 294.
Irish, marriage by dower among, 75.
Isaeus, on ancestral rites, 166.
Island Columbians, divorce among, 151.

J

Jameson, Storm, on rarity of genius among women, 214.
Japan, prostitution in, 91.
punishment for adultery in, 144.
divorce laws in, 155.
couples rarely meet before marriage in, 157.
veneration of parents in, 163.
Javanese, absence of spinsters among, 120.
precautions taken on wedding night among, 129.
Jerome, Saint, on celibacy, 136.
on divorce, 176.
Jesus, opinion on marriage of, 115-6.
nature of the mission of, 137-8.
on divorce, 175; ch. xi., 183.
the divinity and humanity of, 184-5.
absence of omniscience in, 185, 208 *n.*
on celibacy, 201.
on the Mosaic law, 202-3.
Jews (also Hebrews and Israelites), capture of brides among, 67.
marriage by service among, 71.
marriage by purchase among, 72.
marriage by dower among, 73-4.
concubinage among, 82, 164.
virginity essential to marriage among, 90.
feminine unchastity punishable by death among, 91.
abhorrence of bachelors among, 121.
celibacy observed among Essene sect of, 122.
trial marriages in Morocco among, 160.
veneration of parents among, 163-4.
development of divorce among, 164-6.
John, Mr. St., on divorce among Dyaks, 150.
Johnston, Sir H., on mock bride capture among Wa-taïta, 17.
Johnston, Mr., on primitive rut among Californian Indians, 27.
Jung, Dr. C. G., on sexual repression and neuroses, 222.
Jus primae noctis, theory of communal marriage based on practice of, 14, 19.
examples of practice of, 14-7.
true origin of, 123.
Justinus, on virginity observed by priestesses in Persia, 122.

K

Kalmucks, any wife at disposal of priests among, 17.
Kaffirs, Cis-Natalian, licentious feasts among, 28.

Kammas, deferred consummation of marriage among, 124.
Karens, Red, presence of children precludes divorce among, 153.
Keane, A. H., on divorce among Botocudos, 152.
Keith, Sir A., on principle of organization in growth, 216.
Kipling, R., on universal sisterhood, 78.
on advantages of celibacy, 134.
Keres, licentious feasts among, 28.
Knox, R., on divorce among Sinhalese, 150.
Koenigswarter, L. J., on marriage by purchase, 69.
Koppenfells, A. von, on family life of gorilla, 5-6.
Kotars, licentious feasts among, 28.
Kukis, wives at disposal of rajah among, 18.
birth of son precludes divorce among, 153.
Kurgs, polyandry among, 45.

L

Lactation, pleasurable aspect of, 7, 315.
physiology of, 319.
effect of, on child psychology, 322.
La Femme, H. G. Wells on cult of, 249.
Lane, E. W., on favourite wives among Egyptians, 83.
on divorce in Egypt, 151.
on Muhammadan law, 157.
Lane-Poole, S., on Oriental divorce, 157.
Lawrence, Margery, on English slum mothers, 303.
on false idealization of maternity, 317.
Leavenworth, Isabel, on personal aspect of sexual relationships, 327-8.
Lecky, W. E. H., on sex repression among Christians, 138.
on Greek *hetairae*, 167, 227.
on licentiousness of Roman life, 177.
Letourneau, Prof. Ch., on feminine modesty, 54-5.
on marriage by capture in Melanesia, 66.
on conjugal appropriation of captured women, 86.
on prostitution in ancient Greece, 91.
on Genesis, ch. xi., v. 24, 114.
on Unwritten Law, 145.
on Muhammadan divorce, 156.
on powers of Roman husband, 172.
on evolution of Roman marriage, 173.
on human and animal rut, 217.
on future of monogamy, 239.
Leuchart, Prof. R., on periodicity of sexual life, 26.
Lewin, T. A., on love among Cittagong Hill tribes, 75-6.
on sexual laxity among Toungtha, 89.
Lewis, Sir G., on evils of judicial separations, 251.
Lewis, Rev. H., on the beauty of sex life, 328.
on trial marriages, 328.
Lewis, R. T., on ignorance among parents, 306.
Lichenstein, H., on non-gregariousness of Bushmans, 24.
Lindsey, Judge B., on prostitution, 93.
on juvenile sexual delinquency in America, 95-8.
on revolt of modern youth, 101, 255.
on free unions in New York, 101.
on changed attitude towards prenuptial unchastity, 102.
on religious aspect of marriage, 117.
on rarity of good home influence, 306-7.
on regulation of sexual activity, 326-7.
Livonia, sale of captured women to Russian boyars in, 87.
Long, W. J., on gregariousness among animals, 9.

London, increase of free unions in, 101.
statistics of feminine disease and insanity in, 105.
statistics of defective children in, 302.
Love, rarity of connubial, among savages, 75-6.
greatest intensity of, limited to one, 76.
rare among polygamous peoples, 76.
as sole justification of marriage, 77.
dependent on community of interests, 78.
examples of, among primitive peoples, 81.
development of connubial, contributory to monogamy, 82.
mutual, essential to modern monogamy, 208.
frequent absence of, among near relations, 306-7.
varieties of, 328.
Lubbock, Sir J., on communal marriage, 13.
on phallic rites in ancient India, 15.
Ludovici, A. M., on jealousy of old men, 141.
on deleterious influence of women, 210.
on positive and negative women, 225 *n.*
on physiological specialization of women, 315, 335.
on pleasures of pregnancy, 316-7, 335.
on feminine pose of sexual martyrdom, 317.
on double code of morality, 334, 336.
on unfitness of women as companions, 337.
on fundamental marital bond, 337-8.
Luke, Saint, on teaching of Jesus on divorce, 186, 202.
less authoritative than Matthew, 191.

M

Macatecas, marriage rites among, 110.
Macgillivray, J., on scanty dress of Australians, 55-6.
Mucúra, nakedness of Brazilian women at, 55.
Madagascar, loan of daughters an act of hospitality in, 16.
Magic, principles of, 34.
examples of Contagious and Homœopathic, 34-5.
relationship between religion and, 35-6.
theory of primitive, 108-9.
Maine, Sir H., on uncertainty of fatherhood among primitive peoples, 20.
Makonde, restriction of cohabitation after childbirth among, 40.
Malabar Coast, wife at disposal of chief priest among natives of, 18.
artificial accentuation of colour among natives of, 50.
Malaya, frequent absence of connubial love among natives of, 76.
precedence of wife first married in, 82.
divorce in, 149.
Maldavians, frequency of marriages among, 150.
Males, sexual characteristics of, 48.
differ from females in diathesis, 211.
more katabolic than females, 211-2.
more variable and creative than females, 213.
characteristically more dominant than females, 213-4.
Malinowski, Dr. B., on appropriation of attractive girls by old men among Australians, 140.
Malleson, Miles, on necessity of sexual compatibility, 226.
on marriage and vested interests, 301.
Man, physical characteristics of, 52.

Man, expenditure of energy in, 61, 61 *n.*
more erotic under civilization, 85.
Miss Dalham on inferiority of, 210.
typical vices and virtues of, 213.
creativeness of, 214.
dependent on feminine responsiveness, 228-31.
Manahiki, taboos on childbirth in, 38-9.
Manning, Bishop, on immorality of trial marriages, 328.
Manta, province of, bride at service of wedding guests in, 15.
Mantras, excessive marriages among, 151.
Manus, rights of, in Rome, 172.
Maoris, mock bride capture among, 67-8.
wife abduction followed by purchase among, 70.
precedence of wife first married among, 82.
creation myth of, 114.
Marianne Islands, divorce by mutual consent in, 151.
Mark, Saint, on the divinity of Jesus, 184.
on teaching of Jesus on divorce, 186, 195.
alleged unreliability of, 186.
origin of gospel of, 188-9.
less reliable than Matthew, 190.
Marquesas Islands, compulsory celibacy of priests in, 122.
divorce by mutual consent in, 151.
Marriage, origin of, ch. i., 1.
mythical origin of, in various countries, 1-2.
analogies between human and animal, 3, 6.
not peculiar to man, 3.
and the family, 6.
emotional aspect of, 8.
social aspect of, 10-1.
primitive human, ch. xi., 12.
data relative to primitive human, 12.
theory of primitive communal, 13.
Marriage, alleged evidence of communal, 14-20.
by combat, 59-60.
by capture, 66-9.
by purchase, 69-72.
by exchange of kin, 70.
by service, 71.
by dower, 73-5.
as a religious institution, ch. vii., 107.
subjected to tribal and State control, 107.
importance of auspices in connection with, 110, 170.
as a divine institution, 112.
Christian conception of, 116.
a Christian sacrament, 117.
declared a civil contract in France, 118.
deferred consummation of, among various peoples, 121, 123-8.
reasons for deferred consummation of, 128.
unrealized ideal of universal indissoluble, 148.
hazards of, 157.
civilization and increase in duration of, 158.
by trial, 159-61.
contracted for stipulated period in Persia, 160.
of girls in Rome, 172.
Milton on, 203, 205-6.
complexity of modern, ch. xii., 209.
essentially a human society, 209.
importance of compatibility in, 209, 250.
importance of sexual satisfaction in, 226.
importance of mental compatibility in, 226.
hardships inflicted by maintenance laws in English, 241-4.
essential requirements of, 250.
criticism of "companionate," 260-1.
disabilities suffered by women in, 280.
suggested reform of Anglican vows in, 291-3.

Marriage, duty of Church in stressing ideal nature of, 292.
the future of, ch. xv., 296.
future freedom in, 312, 325.
Marshall, W., on absence of celibacy among Todas, 120.
Masai, feminine regard for male prowess among, 59.
Mashonas, wives and daughters chief wealth of, 43.
Materialism, inadequacy of, 8, 111, 216.
Maternity, a simple biological function, 304.
represented by women as involving martyrdom, 304, 317.
decline of, among modern women, 314.
risks of, 314.
advantages of, 315.
disabilities of, 316-7.
involves courage and self-sacrifice, 320.
Matthew, Saint, on teaching of Jesus on divorce, 186, 191 ff.
alleged unreliability of, 189, 195.
origin of gospel of, 189-90.
more reliable than Mark, 190.
Mayas, marriage by service among, 70.
prestige of wife first married among, 81.
McLennan, J. F., on phallic rites in India, 15.
Menstruation, taboos on, 36, 37, 38, 39.
physiology of, 319.
Melanesians, system of affinity among, 19 *n.*
marriage by capture among, 66.
creation myth of, 114.
Mexicans, prestige of wife first married among, 81.
celibacy of priests and wizards among ancient, 122.
Mexico, duels fought by rival suitors in, 60.
deferred consummation of marriage in, 121, 123.
order of virgins in ancient, 122.
Meyer, Rev. H. E. A., on lack of gregariousness among Australians, 24-5.
Michaelis, J. D., on Jewish paternal authority, 163.
Milton, J., on divorce, 192-4.
on marriage, 203, 205-6.
on fornication, 197.
Miris, polyandry among, 45.
Model Law of U.S.A., recommendations of, 262-3.
criticism of, 263.
Mommsen, T., on clientage in ancient Rome, 169.
Monogamy, general among anthropoid apes, 21.
general among primitive peoples, 22.
factors determining primitive human, 24.
development of modern, ch. vi., 80.
sometimes due to poverty, 81.
reasons for development of modern, 84-5.
Spencer on, 238.
Montaigne on, 238.
Letourneau on, 239.
Moors, frequent marriages among, 151.
Morality, superstitious belief in transcendental code of, 329-30.
double sexual code of, 334.
Morice, A. G., on fear of menstruation among American tribes, 38.
Morocco, precautions taken at weddings in, 129.
Moseley, Prof. H. N., on ornamentation, 54.
Motherhood, Miss Lawrence on, 303, 305.
evils of sentimental veneration of, 305.
reasons for pathological, 316, 319.
Moxos, freedom of divorce among, 152.
Muhammedans, marriage by dower among, 75.
divorce laws among, 156-7.
Muir, E., on full enjoyment of life, 344-5.

Muirhead, Prof. J., on Roman divorce, 173-4.

N

Nagas, Aos, deferred consummation of marriage among, 125.
Tankhul, scanty dress of girls among, 56.
Nairs, polyandry among, 45.
Nakedness, where universal less stimulating than dress, 56-7.
sexually stimulating when uncommon, 58.
of girls used as stimulus to marriage, 166.
Natal, grounds for divorce in, 181.
Negroes, loan of wives act of hospitality among, 16.
ornamentation of women among Benin, 56.
rarity of celibacy among, 119.
chief wife chosen by parents among, 157.
trial marriages among, 160.
Netherlands, grounds for divorce in, 182.
Netherlands East Indies, frequent absence of connubial love among natives of, 76.
New Guinea, divorce by mutual consent in, 151.
New Guinea, British, taboos on childbirth in, 39.
New South Wales, *jus primae noctis* among natives of, 17.
grounds for divorce among Europeans in, 182.
New York, increase of free unions in, 101.
New Zealand, punishment for adultery in, 143.
grounds for divorce among Europeans in, 182.
Non-gregariousness, reasons for, among animals, 23.
among primitive peoples, 24-5.
Normandy, precautions taken at weddings in, 129.
Norway, grounds for divorce in, 181.
Nukahiva, bride common property of wedding guests in, 15.
sexual freedom of young girls in, 88.
Nunn, Prof. T. P., on rationalization of antipathy, 139.
on man's share in moulding environment, 315 *n.*
on nature of love, 338.

O

Old age, conservatism of, 141.
Oldfield, A., on primitive rut among Watch-an-dies, 27-8.
Orgasm, necessity of, in copula, 220.
frequent lack of, among English wives, 223.
diseases due to lack of, 223-4.
woman's reaction to lack of, 224.
Origen, on celibacy, 136.
on divorce, 175.
Ornamentation, universality of love of, 53.
origin of, 53, 54.
Otomies, trial marriages among, 159.

P

Papias, on origin of gospels, 188.
Papuans, capture of wives among, 66.
wife capture followed by purchase among, 70.
Parens patriae, growth of doctrine of, 153, 299.
modern development in practice of, 311.
future development of, 325.
Parenthood, duties of, among lower species, 4.
limitation of authority of, 299.
specialized knowledge required for ideal, 316.
Parsons, Elsie, on Soviet marriage laws, 278 *n.*
Parturition, unpleasantness of, 316.
alleged to be pleasurable in cats, 317.
Patagonians, celibacy of priests and wizards among, 122.
Paterfamilias, powers of, 170, 172.
Patria potestas, in ancient Rome, 172.
Paul, Saint, on sacramental marriage, 117.
on celibacy, 136, 172.

Paul, Saint, on fornication, 196, 198.
on divorce, 198.
Persia, virginity essential to marriage in, 90.
virgin priestesses in ancient, 122.
trial marriages in, 160.
Personality, nature and development of, 298.
development of in women, 315
Peru, conjugal appropriation of colonists' wives in, 87.
Peruvians, precedence of wife first married among, 81.
virgins of Sun among ancient, 122.
Plato, on incest, 64.
on ancestor worship, 166.
Pliny, on promiscuity in ancient world, 14.
Ploetz, Dr., on evils of frequent pregnancy, 336.
Plutarch, on extra-marital relationships in Greece, 144-5.
on incentives to marriage in Sparta, 166.
on Roman divorce, 171.
on powers of Roman father, 172.
Polo, Marco, on accentuation of colour among natives of Malabar Coast, 50-1.
Polyandry, countries in which practised, 45.
reasons for, 46.
method of sharing husbands under, 46-7.
Polygamy, origin and development of, ch. iii., 26.
origin of, 33.
advantages of, 41-2.
Polygordius, mother sacrificed in reproduction, 318.
Polynesians, precedence of wife first married among, 82.
sexual freedom of young girls among, 88.
Portugal, grounds for divorce in, 181.
Powers, G., on scanty dress of girls in California, 55.
Pregnancy, taboos on, 36, 38-40.
possible reduction in length of human, 323.
evil results of frequent, 336.
Prescott, Mr., on absence of celibacy among Dacothas, 119.
Prichard, Hesketh, on Vaudoux cannibalism, 130.
Promiscuity, theory of primitive human, 13.
unknown among many savage peoples, 21.
probably rare in primitive times, 148.
Prostitution, a palliative to monogamy, 85.
modern increase of, 85.
non-existent among primitive peoples, 88.
reasons for absence of among primitive peoples, 88.
antiquity and universality of, 91.
religious, 91.
traffic in, 91-2.
alleged advantages of, 93.
objections to, 93-4.
reasons for gradual decline of, 94-5.
Protococcus, characteristics of, 210-1.
Punjab, precautions taken at weddings in, 129.
Punjas, licentious feasts among, 28.
Putman, Dr. J. J., on sexual conflict and neuroses, 222.

Q

Quatrefages, A. de, on delicacy of women in transient amours, 49.

R

Rajjhars, deferred consummation of marriage among, 124.
Rashdall, Dr., on divorce, 207.
Reade, W. Winwood, on habits of gorilla, 5.
on pregnancy among Ashantees, 40.
on chastity among African natives, 90.
on divorce among Moors, 151.
Reformatio Legum Ecclesiasticarum, recommendations of, 180.
Religion, relation of, to primitive magic, 35.

Religion, a reason for desire of children, 43.
origin and development of, 107-8.
definition of, 109.
importance of in human affairs, 109.
in the future, 344.
Reproduction, simplicity of, among lower species, 3-4, 7.
specialization for, among Vertebrata, 7.
advantages of sexual, 111.
sometimes fatal among lower species, 318-9.
relationship between death and, 319.
Repudiation, among various peoples, ch. ix., 148.
reasons for, among primitive peoples, 149.
examples of, among various peoples, 149-50.
complicated by development of marriage by purchase, 153.
Richardson, J., on loan of wives among Eskimo, 16.
Rivers, Dr. W. H. R., on sexual laxity among Melanesians, 19 *n.*
on neuroses due to sexual repression, 222.
Rolland, Romain, on genius and sex, 217 *n.*
Romans, capture of wives among, 67.
relics of bride capture among, 68-9.
marriage by purchase among, 72.
marriage by dower among, 74-5.
marriage by *usus* among, 173.
Rome, marriage rites in, 110.
virginity observed by vestals in, 122.
punishments for adultery in, 145.
constitution of family in, 162.
constitution of society in, 169.
rights of Quirites in, 170.
powers of husband in, 170-1.
child marriages in, 172.
types of marriage in, 173.
development of divorce in, 173-4, 178.
frequency of divorce in, 177.
Ross, Rev. J., on contempt of celibacy in Corea, 121.
Rosset, M., on divorce among Maldavians, 150.
Roumania, grounds for divorce in, 181.
Royal Commission on Divorce and Matrimonial Causes, report of, 240.
recommendations of, 262.
inadequacy of, 263.
Rushbrooke, Dr., on corruption of gospel texts, 186.
Russell, Bertrand (Hon.), on inadequacy of set rules of conduct, 329.
on ideal governing sexual conduct, 330.
Russia, *droit du seigneur* among landlords in, 18-9.
divorce in Imperial, 181.
divorce in Soviet, 278 *n.*
Rut, season of, determined by food supply, 26-7.
primitive human, 27-8.
emancipation of domestic animals from primitive, 30.
emancipation of man from primitive, 30.
consequences of man's emancipation from, 33.
characteristics of animal, 216-7.
characteristics of human, 217.

S

Saleeby, Dr. C. W., on evils of judicial separations, 251-2.
Saliras, dress worn only by harlots among, 58.
Samoa, purchase price of wives in, 71.
Sanday, Dr., on divorce doctrine of Saint Augustine, 176.
on Matthew, ch. xix., v. 9, 195.
on divorce, 207.
Santals, polyandry among, 45.
precedence of wife first married among, 82.
abhorrence of celibacy among, 120.
divorce regulations among, 152.
trial marriages among, 159.

Sarawak, punishment for adultery in, 144.
Savage, Dr. T. S., on the chimpanzee, 6, 23.
Saxons, punishment for adultery among, 145.
Schopenhauer, A., on prostitution, 93.
Scotland, trial marriages in, 160.
divorce in, 181.
Seemann, B., on postponement of offspring among Fijians, 40.
on dress of Fijian girls, 56.
Selden, on evils of matrimonial interference, 266.
Selection, sexual, in man, ch. iv., 48.
sexual, among lower species, 48, 58.
beauty a factor in, 52, 58.
strength and courage factors in, 58-9.
fertility a factor in, 61.
health a factor in, 61.
domesticity a factor in, 62.
modified by civilization, ch. v., 63.
determined by considerations of wealth, 72.
complicated by civilization, 75.
moral, intellectual, emotional and cultural qualities factors in, 79.
Semites, religious motive for children among, 43.
marriage by service among, 71.
prostitution among, 91.
powers of father among, 162.
Separations, condemned as immoral and unchristian, 182, 251.
literally divorces minus right of remarriage, 207.
examples of hardships occasioned by, 241-246.
opinions of leading authorities on, 251-2.
statistics of English, 252.
Sex, conflicts with idealism of youth, 134-5.
deplored as transmitter of Original Sin, 138.
a renewal of life in the individual, 217.
Sexes, association of the, among animals, 4-6.
secondary sexual characteristics of, 48, 52.
local disparity in proportion of, 80.
comparative equality of, at birth, 80.
characteristics of, 211-2.
mental and temperamental differences in the, 213-4.
complementary nature of the, 214-5.
mutual dependence of the, 214-5.
Sex-life, periodicity of, 26-7.
stimulated by regular food-supply, 27.
less easily satisfied under civilization, 85.
evil results of suppressed, 104.
urge of, among geniuses, 217.
importance of normal, 218, 326.
Sexual abstinence, evil results of, 104-5, 220-1, 222.
recommended before death among Tahitians, 121-2.
sometimes contributory to material success, 133-4.
involves dissipation of energy, 135.
lauded by St. Paul and Early Fathers, 136-7.
often responsible for abnormalities and neuroses, 222.
evil consequences of, to women, 223-4.
Sexual desire, simple among savages, 85.
complicated among highly civilized, 85-6.
strongly marked in females in state of nature, 149.
periodicity of, in woman, 219.
transience of initial ardour of, 338.
Sexual excesses, dangers of, 342.
Sexual dimorphism, not a reproductive necessity, 111, 222-3, 226.
Sexual instinct, stimulated by civilization, 33, 42, 85.
Sexual intercourse, freedom of pre-nuptial among certain peoples, 88-9.
regulation of pre-nuptial in Eddystone Island, 89 *n*.

Sexual intercourse, believed to be impure among certain peoples, 121.
origin of belief of impurity of, 123-6.
non-procreative, not necessarily immoral, 326.
ideally governed by mutual desire, 330.
pre-nuptial and extra-marital not necessarily immoral, 321.
Sexual relationships, future of, ch. xv., 296.
non-amenable to social control, 326-7.
should be judged only on merits, 327-8.
Shame, origin of feeling of, 131.
Shans, wives' power of divorce among, 154.
Shaw, G. B., on feminine initiative in courtship, 150.
on immorality of separations, 252.
on improvement in marital manners, 288-9.
on the Church and divorce law reform, 289.
on ectogenetic children, 321.
Siamese, precedence of wife first married among, 82.
Sibree, J., on love among Hovas, 75.
Sierra Leone, taboos on cohabitation in, 40.
Sinhalese, polyandry among, 45.
divorce among, 150.
frequent marriages among, 150-1.
Sladen, Rev. A. W., on insufficiency of adultery as grounds for divorce, 330-1.
Slavs, marriage by dower among, 75.
South, functions of bridesmaids and bridesmen among, 126.
Smith, Bosworth, on Muhammadan divorce, 157.
Smith, Prof. W. Robertson, on incest, 64.
Smyth, R. Brough, on loan of brides among Australians, 17, 142.
on isolation of families among Australians, 15.
Snake Indians, lack of social organization among, 25.
social organization among Bonak section of, 31.
Social organization, lack of among Snake Indians, 25.
beginnings of among Bonaks, 31.
in ancient Rome, 169-70.
H. G. Wells on development of, 287.
South Sea Islanders, artificial accentuation of physical peculiarities among, 51.
ghosts believed capable of vengeance among, 130.
Sparta, bachelors placed under ban, 166.
youths compelled to assist naked girls at games in, 166.
Species, preservation of, 3.
Spencer, H., on disadvantages of gregariousness, 24.
on racial characteristics, 51.
on marriage by capture, 65.
on marriage by purchase, 69.
on monogamy, 238.
Spinsters, prevalence of disease and abnormality among, 104, 104 *n.*
absence of among primitive peoples, 119-20.
Sproat, G. M., on loan of wives in British Columbia, 16.
on marriage by purchase, 70.
Stetson, Mrs., on maternity and social activity, 316.
Stevenson, R. L., on cannibalism among South Sea Islanders, 130.
on disabilities of Old Age, 141.
on importance of compatibility in marriage, 235.
on catchwords, 241.
Stopes, Dr. Marie, on courtship before copula, 219.
on periodic sexual desire among women, 220.
on psychical benefits of copula, 221.
on rarity of orgasms among wives, 223.
on marital sexual ignorance, 224.
Streeter, Dr. B. H., on humanity of Jesus, 185.

Strabo, on phallic rites in ancient Armenia, 15.
Sumatra, marriage by exchange of kin in, 70.
universality of marriage in, 120.
deferred consummation of marriage in, 125.
Summary Jurisprudence (Married Women) Act, provisions of, 250.
Swift, Rigby (Justice), on maintenance orders in England, 244.

T

Taboos, on pregnant women, 33, 36, 37.
on menstruous women, 36, 37, 38.
on women in childbirth, 37, 39.
reasons for imposition of, 37.
on woman's blood, 37-8.
on nursing mothers, 37-8.
on wounded men, 41.
on animal milk for children, 41.
revolt against modern sexual, 100.
sex the last of the great, 326.
Tahitians, dress worn only by libertines among, 58.
creation myth of, 114.
notion of impurity of copula among, 121-2.
punishment for adultery among, 143.
divorce among, 149.
divorce by mutual consent among, 151.
Tartars, trial marriages among, 160.
Bedel, creation myth of, 114.
Tasmania, adultery cruelly punished in, 142.
Tattooing, world-wide custom of, 53.
reasons for, 53.
Teleology, the problem of, 8-9.
Tertullian, on celibacy, 136.
on divorce, 175.
Theism, modern science not unfavourable to, 111.
Thomas, W., on courtship among birds, 218-9.
Thomson, J., on segregation of nursing mothers among Makonde, 40.
Thracians, marriage by purchase among, 71.
Tibet, polyandry in, 46.
punishment for adultery in, 144.
Tibetians, Lamaic, polandry among, 46.
Tipperahs, tribal regulation of divorce among, 152.
Todas, polyandry among, 45.
absence of celibacy among, 120.
Tobias nights, origin of, 127.
Tonga, divorce in, 151.
Torres Strait tribes, dress worn only on special occasions among, 57.
Toungtha, absence of prostitution among, 89.
Touaregs, absence of prostitution among, 119-20.
Tupi tribes, penalties imposed on bachelors among, 120.
Tungas, loan of daughters act of hospitality among, 16-7.
Turkomans, high value of young widows among, 62.
wife capture followed by purchase among, 70.
Turner, G., on influence of religion, 109.

U

Uaupés, ideal of beauty among, 52.
dress worn only on special occasions among, 57.
Unwritten Law, pleaded in extenuation of wife murder, 145.
Usus, marriage by, in Rome, 173.

V

Veddahs, communal marriage unknown among, 21.
strictly monogamous, 22.
Vega, Garcilasso de la, on loan of wives in Peru, 15.
Viability, relation of sexual potentiality to, 337.
Victoria, grounds for divorce in, 182.
Virginity, reasons for exaggerated value of, 89-90.
absence of, precludes marriage among certain peoples, 90.
decrease in modern demand for, 102, 103.

Virginity, considered equivalent to death among Indians, 119.
prized by certain religions, 122.
lauded by St. Paul and Early Fathers, 136.
Vitalism, theory of, 320.

W
Wales, mock bride capture in, 68.
marriage by dower in, 75.
Wallace, A. R., on family tie among orang-utan, 5.
on nakedness among savages, 55.
Wa-taïta, *jus primae noctis* among, 17.
Watch-an-dies, rutting season among, 27.
Wateveta, deferred consummation of marriage among, 126.
Watkins, Rev. O. D., on requisites of marriage under Canon Law, 117.
on corruption of Matthew, ch. xix. v. 9, 186.
Wells, H. G., on diminution in feminine chastity, 106.
on sex as a renewal of individual energy, 217.
on evils of sexual abstinence, 218.
on necessity of a healthy sex-life, 219.
on male dependence on feminine responsiveness, 229.
on degeneracy of women, 230.
on the future rôle of women, 231.
on the cult of *La Femme*, 238.
on the history of social organization, 297.
on the development of the social instinct, 298.
on extra-marital relationships among women, 332.
on increase in feminine eroticism, 337.
on advantages of extra-marital relationships, 339-40.
on need of discrimination in extra-marital relationships, 341.
on dangers of sexual immoderation, 342.
Westermarck, Prof. E., on marriage myths, 2.
on natural marriage, 3.
on definition of marriage, 6.
on ancient ethnographers, 14.
on *jus primae noctis*, 16.
on *droit du seigneur*, 19.
on family relationships, 20.
on jealousy, 21.
on primitive human rut, 27.
on advantages of tribal life, 32.
on suckling period among savages, 40.
on value of children, 42.
on ideal beauty, 51.
on adornment, 53, 54, 56-7.
on female regard for male vigour, 60.
on incest, 64.
on marriage by purchase, 69.
on effect of civilization on sexual selection, 84-5.
on promiscuity, 88.
on religious aspect of marriage, 109.
on notion of sexual impurity, 131.
on woman's handicap in divorce, 158.
on conservatism of law, 239.
White, Dr. W. A., on revolt of youth, 100.
Widows, high value of young Turkoman, 62.
regarded as dead among certain peoples, 119.
precautions taken at remarriage of, 129.
Wives, at disposal of wedding guests in certain countries, 15.
at disposal of groom's assistants, 16.
loan of, 16, 142-4, 172.
advantage of numerous, 33.
economic value of, 61.
capture of, 66-7.
purchase of, 69-72.
prestige among, in polygamous countries, 81-2.
favouritism among, in polygamous countries, 82-3.
self-supporting in earlier times, 94.
segregation of, in Greece, 168.

Wives, subjection of, in Rome, 170-2.
lack of orgasms among English, 223.
sexual apathy among, 225.
absurdity of surrender of careers by gifted, 232.
parasitism among, 248.
evils of professional, 249.
scheme of interim support of, pending divorce, 281.
Woman, sublimation of sexual desire during pregnancy in, 41.
ages rapidly in tropics, 42.
aged by hard work, 42.
physical characteristics of, 52.
racial conceptions of beauty in, 52.
modesty of, due to enforced chastity, 54-5.
expenditure of energy in, 61, 213.
as a form of property, 142.
subordinate position of, among certain peoples, 149-50, 154-7, 166-7, 170.
hardships inflicted by divorce on, 158, 280.
less subordinate among primitive peoples, 158.
Ludovici on deleterious influence of, 210.
typical vices and virtues of, 213.
lack of creative genius in, 214.
importance of healthy sex-life to, 219, 220.
evidence of sexual ardour in, 220.
evil results of sexual repression in, 221-2.
sexual anæsthesia in, 225.
fluctuations of sexual desire in, 225.
responsiveness of, 228-30.
H. G. Wells on deleterious influence of modern, 230.
mercenariness of, 247-50.
Wyandots, trial marriages among, 159.
Wyeth, Mr., on lack of gregariousness among Snake Indians, 25.
on social organization among Bonaks, 31.

Y

Yahweh, reputed originator of Mosaic Law, 109.
evolution of conception of, 114.
Yendalines, frequency of remarriage of women of, 150.
Youth, revolt of against sexual restraint, 95, 100.
sexual laxity among modern, 95-101.
Revolt of Modern, 100-1, 255.
agnosticism of modern, 101.
sexual laxity greater among high-spirited, 103.
reaction of, against modern marriage, 254.
economic independence of modern, 255.
reasonableness and intoleration of, 256.
ability of, to enforce reform of marriage laws, 256.

Z

Zahle, Premier, on freer divorce conducive to morality, 268.

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